

THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

REVIEW OF MPs' EXPENSES AND ALLOWANCES

**Church House
Dean's Yard
Westminster, London SW1P 3NZ
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Morning/Afternoon Session**

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Dame Denise Platt DBE
Lloyd Clarke QPM
Dr Elizabeth Vallance JP
Dr Brian Woods-Scawen DL CBE

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Witnesses: Elizabeth Peacock, Vice-Chairman, Association of
Former Members of Parliament
Julia Drown, Former MP,
Hugo Summerson, Former MP,

Gary Lewitt, Director, Service Personnel Policy
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JULIA DROWN, FORMER MP, ASSOCIATION OF FORMER MEMBERS OF PARLIAMENT, HUGO SUMMERSON, FORMER MP, ASSOCIATION OF FORMER MEMBERS OF PARLIAMENT AND ELIZABETH PEACOCK, VICE-CHAIRMAN, ASSOCIATION OF FORMER MEMBERS OF PARLIAMENT

1. SIR CHRISTOPHER KELLY: Good morning. Our witnesses this morning are all ex-MPs and representatives of the Association of Former Members of Parliament. You are all very welcome. Thank you to Julia Drown for your evidence and your opening statement, and to Elizabeth Peacock for your opening statement.¹ Thank you. And Mr Summerson, sorry; I have seen your written evidence as well, of course.
2. Would you mind identifying yourselves for the benefit of the transcriber, please?
3. JULIA DROWN: I am Julia Drown, former Member for South Swindon from 1997 to 2005.
4. ELIZABETH PEACOCK: Elizabeth Peacock, Batley and Spen, 1983 to 1997, Vice Chairman of the Association of Former Members.
5. HUGO SUMMERSON: Hugo Summerson, Member for Walthamstow, 1987 to 1992.
6. SIR CHRISTOPHER KELLY: Thank you very much. As I said, we have had some opening statements. I am quite happy to read them into the record, unless there is something particularly any of you wanted to say or draw our attention to.
7. ELIZABETH PEACOCK: No, I think we are happy.
8. SIR CHRISTOPHER KELLY: Can I begin with a general question, then. Julia Drown, you say in your evidence that most of the problems Parliament is experiencing at the moment are not the fault of the system but of individual MPs not obeying the spirit. Would you like to expand on that, because I am not sure that is a view that most people would have.
9. JULIA DROWN: No, I think there has been a tendency in the press to blame things on the system, but I actually think that the general rule that you are paid a salary and then you are paid the costs of a second home that you would not normally expect to have but you do because of the extraordinary nature of an MP's job and life, that basic rule and the system seems to me a reasonable one. If every MP had claimed thinking, "What is reasonable, what would my constituents expect, given those rules", I do not think we would have had all the scandals, because the scandals have been over people claiming for things that were not there to claim - mortgages, or people were flipping homes, which was not part of the system - and seeming to do it as if to benefit

¹ The opening statements are appended to this transcript.

themselves and make money out of the system rather than just be reimbursed the costs that you have for a second home.

10. SIR CHRISTOPHER KELLY: If it is not the fault of the system but individual MPs, what is it about the culture of the House of Commons that should have made it possible? As you imply, the rules are actually pretty clear most of the time.
11. JULIA DROWN: I find it extraordinary, particularly that people have the time to think about trying to make money out of the system and spending time trying to buy and sell new homes. For me, I just wanted to get home and get on and spend my time on my constituency and parliamentary business. Also, I do actually find it hard to comprehend people thinking that could be a reasonable thing to do. I did equip my home, but when I was in John Lewis thinking, "Right, what should I buy? I need a towel; I will buy one towel. What sort of towel should I buy? Well, I will buy exactly the same towel I bought for my Swindon home, because if my constituent was here I am sure they would think that was reasonable just to equip my home just like I did my normal home in Swindon". So I think it is very strange that people tried to exploit it. I do not know about others but I did not even know that flipping and things like that were going on, which just shows how much I was not in the inner circle of things that were happening. But I think it is strange that, that culture was there. I hope that, given this has happened, it would not happen again.
12. SIR CHRISTOPHER KELLY: If it is a cultural question and not a question about rules, what is going to be different going forward that is going to lead to a different culture?
13. JULIA DROWN: The transparency. If claims are made public, then I think that obviously will make MPs think that it is not something they can just do on the quiet and nobody will ever find out about it. They will know that their local papers will be looking at those claims and questioning them on it.
14. SIR CHRISTOPHER KELLY: Thank you. Do either of you want to comment on this question?
15. ELIZABETH PEACOCK: Yes. I actually think far too much money has been made available since 1998. Reading what MPs have been doing, it would seem that they blamed the system, but the rules were there. They were not monitored carefully, it seems that they were very lax and it would appear that some Members of Parliament really developed into buying and selling property. Many years ago that would not have happened, because in my early days you had an allowance for, I think, three nights a week in Parliament and in those days you had to be here for four at least, so it was not enough, and you were not allowed to use it to pay a mortgage.
16. I wonder whether going back to a system where there is a much more limited amount of money so there is not the opportunity to look to see whether you were cleaning a moat or buying a duck house or whatever. I think there is so much money, people were just looking for something to spend it on, and it

is not necessary and the public out there think it is absolutely horrendous that MPs can buy a second home and they can furnish not only their second home but their original home. People in the early days managed to have a rented flat and to put something in it, be it a bed or whatever. They did not go to John Lewis to buy it, necessarily. I just think the whole system has been given too much money and too many views of how we can spend it. Some did say they were encouraged to spend more, and that is not something that I think is acceptable. And the fact, as Julia says, to make it more public, are we saying that because we report on you, you will abide by the rules, but if we do not, you will not. I do not think they should be given that option.

17. SIR CHRISTOPHER KELLY: Mr Summerson?

18. HUGO SUMMERSON: Yes, I agree with much of what my former parliamentary colleague has said. I think that certainly in the days when I was in the House, to start with it did not occur to me that my constituency of Walthamstow was actually eligible for what was then the additional costs allowance. I was offered the Inner London allowance, which I accepted, and it was not until I had been in the House for a year or two that someone said, "Do you realise you are actually outside the Inner London area and you can claim the additional costs allowance", which I did. I bought a house in Walthamstow.

19. You may ask why on earth buy a house in Walthamstow which is, after all, extremely accessible to Westminster. The answer to that, I think, is -- it is a bit difficult at this passage of time, but I do not think that I was thinking in terms of flipping and making capital gains. What I was thinking was that my constituency was extremely marginal, my majority was just over 1,500 and the vote in 1987 had split almost equally 3 ways. I had 36 per cent of the vote or something, and Labour 34.5 per cent and Liberals 30 per cent. It was very nearly an equal three-way split. Of course, there are many, many pressures on new MPs in highly marginal constituencies and if you chose not to live in your constituency, that would open you to attack from your political opponents, so that was the reason I did that. But of course in those days, although you were then allowed to claim mortgage interest, interest rates were so high that the allowance just about covered the mortgage interest and it certainly did not cover anything else at all. I used to go out and buy furniture in the local flea market; it was the only place I could get it.

20. SIR CHRISTOPHER KELLY: Just to clarify, you had a house in Walthamstow but you also had another house, which was your main house, somewhere else?

21. HUGO SUMMERSON: To start with I had a flat in Westminster, but then in fact I rationalised the entire set up. I got rid of my flat in Westminster, I got rid of my house in Walthamstow and I bought a house in Islington, midway between the two, because otherwise I thought it was just quite ridiculous. I was spending nights in my constituency for no reason other than to say, "I am in the constituency", and I decided to rely on my reputation as a hardworking constituency MP, although in the end result, it did not do me much good, but

that is politics.

22. ELIZABETH PEACOCK: Of course, if more Members of Parliament lived either in their constituency or very near, there would not be quite so much of a problem, so that is perhaps something that constituencies will look at. I mean, I am a Yorkshire woman, I had a Yorkshire constituency and I live there, I do not know, within ten miles or whatever. So I never had an opportunity or needed an opportunity to have a house in the constituency; my home was there. That does make a huge difference if you look at how people organise their parliamentary life.
23. SIR CHRISTOPHER KELLY: One of the issues that seems to underlie a lot of public concern is the way that MPs seem to have arrangements for themselves that do not reflect the same arrangements that their constituents face, for example in support for commuting costs and so on. A lot of the issues seem to turn on the extent to which being an MP makes you special in some way. With the benefit of being able to be a bit more objective about this now, do you think that MPs' jobs are so different from those of their constituents and, if so, in what ways.
24. JULIA DROWN: I do not want to make it sound like it is superior, because it is not, but it is a very different life. I think there is a way in which, if we want to have the best MPs and get the best out of our MPs, we do sort of have to expect it to be more of a way of life, simply because you are in two places so much and you are trying to always balance being in Westminster but also being in your constituency.
25. I certainly think there are some minor things. For most MPs it does seem that you can get paid between your home in your constituency rather than your constituency office being your main base, and that I do not think is justified. Your constituency office should be your main base and then that can be equivalent to most other jobs, which is you are paid any travel from your main place of work. I think that should be cut out.
26. A more major problem I think, which I did pick up, is that people can have a third home, which is their main home, and then they can get paid from that main home to the constituency, if it is outside the constituency, and the main home to Westminster. That seems to me to be wrong. Your main place of work should be the constituency office.
27. Aside from that, most people do get paid travel expenses and I think that is reasonable. I would say that I think costs could be saved. There is an expectation that most MPs will want to travel first class most of the time and I am not sure that is justified. Many employers say you need to travel standard class unless there are exceptions. Certainly costs could be saved that way.
28. But I think the way that an MP is serving those 70,000 or 80,000 in the constituency, in that way it is a different job from serving one employer. If there is a disaster in the constituency, it is up to you to decide whether you are going back. Your employers are saying, "Right, you are dropping everything".

You have to make those choices all the time.

29. And the hours of the House are extraordinary. They do not need to be. An MP's work could become more like a normal job, a normal employment, and I think it should become more like that. I think that is quite a long way down the road, and until we get there I think we do have to accept that there are some extraordinary things about being an MP particularly, and we are all affected by it. We, in this country and internationally, are all affected by the work of our MPs and I think we should do a lot to make sure we create a system that enables us to get the very best people in the country to be willing to stand for parliament and to represent us. If we create a system that is so harsh and so much putting everybody and their families in the media spotlight, it might mean we do not get some of the very best people in the country to step forward and be our MPs, and I think we always need to bear that in mind.
30. Sometimes on radio programmes they want to see, or the media will say, "Are you like a normal person? Do you know how much a pint of milk is?" For me I always think that is a regrettable aspect or regrettable course of inquiry, because I do not actually want my MP to know how much a pint of milk is. I do not want my MP to have to worry about their money. Of course we want everybody to have empathy with our constituents who are struggling, but if we ourselves want to get our MPs to struggle financially and worry about where the next £10 is coming from, they are going to have to spend time on that and sorting that out with their families and worrying about their families. I want MPs to be able to not worry about that, nor even worry about having to balance their bank account, but to know that they are just comfortably off and they can spend all their time on their constituents, on the constituency and on making sure that the government is being kept to account.
31. ELIZABETH PEACOCK: I think we have to have to be very careful if we are going to say MPs are so special that they have to have all this paraphernalia and costs that go with them. Many people out there do not understand that. I was at a meeting in the City last week and several people were saying to me, "I travel in every day. That is just like my MP says she cannot do or he cannot do. I do it every day; we are commuters, and within an area we expect to do that". I think one of the problems again arises if people have a Westminster base, a constituency base and a home. If you are going to be going between three, I would have thought that then does become expensive and almost impossible.
32. Also, times have changed. Julia says that Parliament could change. It has changed beyond all recognition in the last 25 years, certainly from 1983 onwards. We were lucky most of the time either sitting in committee or in the House. I can remember driving home at 4.00am, 5.00am, go home, have a shower, have some coffee and go back to work again. It is not like that now, so the idea that you had to have somewhere as handy as possible because you could not go on public transport so you probably needed a vehicle in London because there were not taxis available for all these people coming out of the house. So I think that it has changed.

33. My worry is that if we cut down the hours more and more there is going to be very little time for opposition and we are doing a great damage to our democracy. That is my main concern about the whole of this issue. The whole world is looking at this democracy which they thought was a leader in what it did, and now it is not being held in such regard, and I think that is a great danger.
34. SIR CHRISTOPHER KELLY: Thank you. Mr Summerson?
35. HUGO SUMMERSON: I think that MPs should have special status. I think that in their constituencies they should be looked up to as their representative in Parliament. I think that they should also reflect some of the glory and majesty of Parliament and our parliamentary system. I think that it should be recognised that MPs have two places of work, obviously the constituency and Westminster. I agree with what Julia Drown said. I think that MPs should be freed of financial worry in that respect. This is why, in my submission, I put forward the idea that there should be what I call a parliamentary home in each constituency, and the same thing in central London. These parliamentary homes are perhaps rather like grace and favour residences. It just takes all this stuff about interest payments and the John Lewis list and flipping and avoiding capital gains out of the equation altogether. It ensures that newly elected MPs, and indeed continuing MPs, do not have to worry about where and how they are going to live.
36. I just want to emphasise the point about status. In my view, of course MPs ought to know what goes on in their constituencies, but nevertheless they should be among the brightest and the best people of our country to serve in Parliament. I say "to serve" in Parliament; I use that verb deliberately. I think that what has very unfortunately happened is that far too many MPs have lost their view of this idea of service. Because these enormous allowances, which I think total something like £160,000 a year tax free, are available, I think far too many MPs have concentrated far too much time and effort on securing as much of those allowances for themselves as they possibly can, at a time when they should be looking much more into the way the country is run. Why are they not all in Parliament, for example, looking at statutory instruments, which I regard as absolutely pernicious? But they are not. Where are they, what are they doing? As I said, I think the final sentence of my submission was to the effect that we should all have a public debate on exactly what MPs do and exactly what they are for.
37. JULIA DROWN: Can I just briefly respond. I think MPs should not be looked up to; they need to just be looked to as the representative in parliament. It is not about being superior; it is about just being different and being a representative in parliament. I would hope the Committee would always bear in mind that those 600 people are different and they are going to be different. We want them to be different and have different family units. Having a parliamentary home in a constituency or in London might be okay for some people, but I think it would be really unreasonable to ask families to move. If you lived in the constituency and your children are going to local schools, you should not have to move to a parliamentary home on the other

side of the constituency just because you have become a Member of Parliament. Those children should still be able to walk down the road to their local schools, presumably whether that is Westminster or not.

38. Although I am glad that Parliament has moved over the last 25 years and we are not doing the ridiculous 3.00am and 4.00am that Elizabeth had to do, they are still regularly sitting until past 10.00pm and then people are expected to be in for a standing committee or whatever at 10.00am the next morning. So I think we should get away from that. I am not saying there should be less hours, but it could be just different hours to make it more like other people's jobs. But as it stands at the moment, it is not. The demands on MPs in terms of hours are still ridiculous.
39. SIR CHRISTOPHER KELLY: Thank you. Lloyd.
40. LLOYD CLARKE QPM: Could I focus on two allowances, if I might, because the three of you have a unique insight into them and we have not received evidence from people who have either used them or been the subject of the winding-up allowance and the resettlement grant. Perhaps I can start with the Winding-up Allowance and ask you, Elizabeth Peacock, what was involved for you when you ceased being an MP and you wound your office up. What typically was involved in that, and how did you use the allowance?
41. ELIZABETH PEACOCK: In actual fact, for a long time in my early parliamentary days I did not have a constituency office; there was not one and I could not provide one because I did not have the funds. There was one at a later stage where I had one room and a part-time secretary. When after midnight came and I had lost my seat, I had an assistant in London who had lost his job, and a part-time one in the constituency. Obviously my concern, as well as what I was going to do, was to help them readjust their lives. They had mortgages to pay as well, and in that, I have to be honest, I did have a husband who had paid the mortgage and perhaps I was not as frantic as somebody who was going to have to find that money. But they were absolutely devastated, so part of that allowance, I suppose - I do not remember all the fine details - was spent in winding up in the constituency, the bit that was there, and to cease contributing for the room that I had had, because there was an agreement, so that had to be paid off. To all intents and purposes, my renting of my flat in London had a contract and that had to be paid off. Then helping, as I say, both of my assistants to look forward.
42. You always end up - and I do not have the details to mind and I cannot find all the papers in the loft, because I went to look for them - with lots of ongoing things which you have to finalise. You have to pay off the accounts and things, so most of it went on that. I think at that time, if I remember rightly, it was £25,000 or something, which sounds a lot of money, but then you have 3 months in which to wind everything up.
43. LLOYD CLARKE: Was it clear to you at that particular time what the allowance was for and how you were meant to use it? Am I right in thinking, from what you have just said, that you actually lost your seat, so it was not

about preparing for retirement?

44. ELIZABETH PEACOCK: No, I did not have the opportunity to plan. Being an optimist in a seat that was always likely to depart my grip -- a lot of people said I should have been planning, but I am an optimist and I would never plan to say, "I know what is going to happen tonight". I was always hopeful that I would hang on, so I had not made any plans.
45. At that time in the Fees Office was an extremely efficient chap called Alan Marskell, who was a tremendous help to all of us in those days. He was very precise, he was very knowledgeable and I think when you get over the shock after a few days you have to go along and see him. He said, "Look, this is what you need to do and this is what you are allowed and this is what you can do with it". And he was very precise about that.
46. LLOYD CLARKE: Did it take you three months? I mean, presumably there is constituency business to wind up, casework or whatever else it might be; I suspect maybe not a lot in your case if you did not feel the need for a constituency office. Was the three-month period adequate, was it too much, too little?
47. ELIZABETH PEACOCK: The election was in June and I set a timetable that by the end of August we would be clear, and we were. I do hear stories people being told they cannot go back into Parliament. We did not have passes in the early days, but I was allowed in Parliament Street to clear my office out during that period, so that to me was ideal. As far as I can remember, the funds that were available were okay to finalise all the things that we had been doing.
48. LLOYD CLARKE: Certainly there is no suggestion that we have heard that there has been an abuse of that allowance. Perhaps one other question, if I can ask it, and then we will open it up to see if other experiences are the same, the one thing that has been suggested to us is that MPs have been able to pay off, or have chosen to pay, their staff at different levels in terms of termination payments. Did you find that you needed to do that, was it appropriate, were you given guidance on what would be an appropriate level of termination pay for people you had employed?
49. ELIZABETH PEACOCK: If I remember correctly, Mr Marskell asked about the staff. I had an assistant in London who was full time - a guy in his 30s - and a slightly more mature lady part time in the constituency. I was told that I think at that time you give them three months' notice and you give them three months' pay. Then that is it. You help them find other employment, but that was very precise.
50. LLOYD CLARKE: Quite specifically what we understand happens is that it is statutory redundancy pay which your employees would get, which is less than perhaps many other people in public service would get, and that the opportunity was there for you as an individual, if you chose to, to top up that pay so that the redundancy pay was more level with the public sector. Again,

is that within your --

51. ELIZABETH PEACOCK: I do not remember that. I remember being told that it was three months' redundancy, and I think at that time it was probably a basic redundancy, and that was all the money that was available, so you could not start then to start giving extra, not in my memory.
52. LLOYD CLARKE: Can I bring in your colleagues, similar kind of experiences, specifically about the winding up, and then I will come to resettlement in a minute, but similar experiences?
53. HUGO SUMMERSON: Yes, I think very similar. I think that the Winding-up Allowance was, as Elizabeth has said, for you to pay off your grieving staff. I would like to endorse entirely what she said that no MP, no matter how marginal his or her constituency is, would ever go into a general election with any thought other than total victory in his or her mind. You cannot plan for defeat. I mean, just imagine the effect on your troops; it would be shocking. So, yes, the winding-up allowance I think works well. I certainly seem to remember it working well in my case.
54. LLOYD CLARKE: Are you all three the same? Did you all lose our seats in elections?
55. JULIA DROWN: No, I stood down, so it was a bit different. I could have done more planning, but it was nice not to have to so that I could just spend all my time doing parliamentary and constituency business and, like Elizabeth, just worry about everything else, even though I could have planned, because I knew I was not going to stand again afterwards.
56. I have actually thought about the issue you raised about paying staff a bit more to make their statutory redundancy pay better, but as you said that, that did set my brain going. I think I did do that and I think that was allowed and sort of accepted. I do not want to embarrass any individuals, but we also need to be aware that in the case of me standing down, another Member of Parliament of the same party was elected, so some of my staff then had the opportunity - not necessarily; they might not have been employed by that person - of doing so, so then there is an issue there about double pay. In fact, mine were sort of doing overtime to try to finish off my constituency business and start working for the new Member of Parliament.
57. LLOYD CLARKE: In your instance, being different, therefore knowing that you were going to stand down, were you able, before the actual date, to wind everything up and to prepare for that date? Unlike Elizabeth Peacock, it was not a shock to you and you did not need the time thereafter.
58. JULIA DROWN: No. I could have done. I have to say it was nice not to have to do that. It was nice just to be able to speak and represent the constituents as if I was going to carry on, and knowing that I would then just pass any case on to the new MP, whatever party was elected, and I was happy to work like that. As it happened, the cheapest office I could get hold of

in my constituency was a fixed lease, so I actually had to pay all of that off, so there was nothing I could do to plan in that way for it, and that was one of the big costs.

59. And I did not want to start telling my staff to go and get other jobs. Officially perhaps I should have done that, but I needed them right up to that last day. I must admit, when I first saw the Winding-up Allowance, I thought, "Gosh, that looks really generous; I will not need anything like that", and I was surprised how long it did take, particularly as the new MP did not want my office, to do all the transfer and get rid of the stuff in all my filing cabinets. It did actually take quite a bit of that time to do it.
60. LLOYD CLARKE: Okay, that is helpful. Can I actually turn now to the Resettlement Grant. Perhaps I can stay with you in terms of that, because again your experience is slightly different. One of the things that has been suggested to us is that the Resettlement Grant should just be there, in real terms, as a redundancy pay for if you lose your seat at an election and you were not planning for that. Genuinely you are made redundant, and it should not be paid to MPs who decide to stand down or to retire. In actual fact, that was a recommendation from the SSRB a couple of years ago that Parliament chose not to implement. Can I ask the justification for you taking - not wishing to poke you in the eye about it, as it were - the resettlement grant? Why should it have been paid to you, knowing that you were standing down?
61. JULIA DROWN: Sure. The only reason to do it was then I did not have to spend my time up to election day trying to get myself another job or spend time looking for jobs, doing job applications, going to interviews, because that would be time taken away from my constituents. I can see there is a case for saying you should do that. I think it would be a shame if MPs did have to spend the time doing that and worrying about it. There is certainly a case, perhaps, for having a less generous one for people who know they are standing down, but I certainly think there is a case, because we want MPs to work up to election day.
62. LLOYD CLARKE: So a case for a less generous one, but you are saying that to enable the individual to be working up to the last minute still on parliamentary work, therefore it gives you time to go working afterwards and provides funds to enable you to do that?
63. JULIA DROWN: I would do that on the grounds that I want MPs not to have to worry about their personal finances. I want them to spend that time working in the constituency.
64. LLOYD CLARKE: Although you said that you knew when you were going to stand down, or that you were not actually going to contest the next election, did you know when the next election was coming along? Because that is the other argument that has been put to us.
65. JULIA DROWN: No, you do not. You are absolutely right. No, you would not know. So you would be trying to get an open-ended job, somebody

that will just wait for you, which is pretty impossible.

66. LLOYD CLARKE: What kind of notice did you get from the announcement of the election to you actually formally standing down? What was the kind of duration, can you recall?
67. JULIA DROWN: Sorry, between ...?
68. LLOYD CLARKE: Between an election being announced, and therefore even though you knew in your mind that you were not going to stand at the next election --
69. JULIA DROWN: Well, yes, I get the same announcement as the general public.
70. LLOYD CLARKE: Sure. I was asking what it was in your case; can you remember what it was?
71. JULIA DROWN: About six weeks or something like that. No politician would then want to spend that six weeks looking for jobs. You want to do the best to defend your constituency, even if you are not standing again.
72. LLOYD CLARKE: Could I ask the other two. Again, yours genuinely was redundancy in both your cases. There is no suggestion that MPs should not receive the resettlement allowance. There is an argument that it should be calculated in a different way and not about age and length of service as an MP. Do you have any comments to add to that?
73. ELIZABETH PEACOCK: I would have thought that age and length of service is very appropriate. Outside in the real world, if you are made redundant then you would get a minimum redundancy. I think at the time, in 1997, it was the equivalent of our salary, which I think was £28,000 or something. That then is there as a redundancy until you have spent three months sorting out your office and everybody else. That, to my mind, would tide you over.
74. I think it is slightly different, as Julia says, that she had planned. I know even in 1997 some of my colleagues planned not to stand again because they were fairly sure they were going to lose and they did not want to stand there and be defeated. Therefore, they planned to empty their offices, they cleared their office in Parliament completely, they ran down everything else and then they still got the same redundancy. So you might say they had chosen to do that. Outside in business, if you know you are going to move jobs then you make other arrangements during the time you are working. So I think we have to be a bit careful about saying MPs are very special, and I think this is the thing that the public outside do not understand. They say, "Do you know how much it costs, how much I get in pension and how much I spend in the supermarket?" I disagree with Julia; yes, you do have to know how much they are spending on their food. By going and doing my shopping in the constituency every week, I found out how much they were spending on their

food.

75. LLOYD CLARKE: Could I follow up that with a question to you again, Elizabeth Peacock. Taking outside interests - and I do not want to go down the road of outside interests - it has been suggested to us if an MP is leaving Parliament and does have outside interests and he is going to continue with an occupation or move straight into a job, that the resettlement allowance should be abated in some way, shape or form. Do you have any view on that, please?
76. ELIZABETH PEACOCK: I think I go back to almost a statutory redundancy, which would be the minimum if somebody is obviously moving on straight away to something. There has been much criticism about ministers leaving down, standing down and leaving a ministerial job and going straight out into the wide world and getting a very well-paid job. Twenty years ago they were not allowed to take jobs for two years, I think, after holding a ministerial office, and that has all changed.
77. I think it is quite difficult to have a system that will suit everybody, but I think if you are planning and you know what you are going to do and you have that other occupation -- which I actually do believe Members of Parliament should be linked to the real world, because otherwise it becomes a hothouse in Westminster.
78. LLOYD CLARKE: Mr Summerson, anything to add to that?
79. HUGO SUMMERSON: Yes. In fact, the Resettlement Grant is still, after 17 years, a very sore point with me, because I only did one Parliament and I was therefore told that I was going to get half the Resettlement Grant that I would have got if I had done two Parliaments. So I got, I think it was, something like £11,000 or £12,000. I did have outside interests. If I remember rightly, my outside business interests at the time produced about £6,000 a year. I found I could not live on £6,000 a year; I had to start another business.
80. I do come back to Members of Parliament being special. I think this is how they should be seen. After all, when other people are made redundant it does not take a vote of 65,000 or 70,000 people to do so.
81. LLOYD CLARKE: That is interesting. A final question from me is one of the reasons put forward for retaining it is because what this allows, the resettlement grant, is this churning of Members of Parliament. It is suggested that it blocks bed-blocking, euphemistically used, insofar as this turnover. Because there is a resettlement grant, it acts as something of an incentive for MPs to stand down and move away. You are all saying no to that. Mr Summerson, would you like to explain your view on it?
82. HUGO SUMMERSON: I am not sure I am saying no to that, in fact, because there are bed-blockers; there are a lot of them. I mean, if you look at all the parties in the House of Commons, you will see MPs sitting on the

backbenches who are probably, I don't know, in their early to mid 50s, let us say. They have been there already 15 or 20 years. It is quite clear to them that they are never going -- they have tried to climb up the greasy pole, they have been kicked in the teeth, they have slid down again. We all know what parliamentary life is like. They know that they are never going to get promoted. They also know that at that age, and with a background as a parliamentarian, they are not ever going to be employed by anyone ever again, so what do they do?

83. LLOYD CLARKE: But why should the Resettlement Grant be used to encourage them to step away from Parliament?
84. HUGO SUMMERSON: I think it comes back to what I was saying earlier, that we need the brightest and the best people in Parliament. When I entered the House I was told there were four types of MP. There were the highly ambitious ones who wanted to climb the greasy pole, there were those who were the special experts, there were the drunks and there were the embittered. And it is the drunks and the embittered who really need an inducement to leave Parliament.
85. LLOYD CLARKE: You are causing eyebrows to be raised to your right, maybe for a number of reasons.
86. ELIZABETH PEACOCK: I am not sure what category I come into.
87. LLOYD CLARKE: Do you want to stick with the Resettlement Grant and the bed-blocking issue first?
88. ELIZABETH PEACOCK: Yes. I do not think it would make any difference, quite frankly. It is just not going to make people who have been in Parliament a long time and want to stay there -- they are not going to move on. There are people in there in their 70s, late 70s, some of them, and they are not going to go until they are carried out in a box, no matter what is offered on the outside. I am not sure that even increasing that allowance would make any difference to what we all term as the bed-blockers, and there are quite a lot of them in there. I think Hugo is being quite kind to say early 50s or late 50s. I mean, we get into late 60s and 70s as well, and there are some well into their 70s.
89. LLOYD CLARKE: Let us not be ageist. Julia Drown.
90. JULIA DROWN: A few months on the Resettlement Grant is not going to stop bed-blocking. There is a serious issue about our democracy and if we did want to say we should not have people there forever - maybe people should stand and then they can stand down and then stand again - maybe we could say you cannot do more than two terms or something like that. That would be the way to solve it if we thought that was how our democracy should work.

91. LLOYD CLARKE: Thank you very much.
92. SIR CHRISTOPHER KELLY: Elizabeth.
93. DR ELIZABETH VALLANCE: Can I ask you a little bit about what you think about the independent regulator and independent regulation of MPs' expenses. You, Mr Summerson, in your evidence to us, stated quite clearly that you think that the independent regulator, or the idea of an independent regulator - the so-called IPSA in the new bill - is a bad idea. Would you like to tell us why?
94. HUGO SUMMERSON: I think it is an extremely bad idea. I think that Parliament should be sovereign. No MP should be subject to some sort of independent outside body, otherwise it would wield enormous power over MPs and the way they do their work. I think it is a thoroughly bad idea. I think, as I keep on saying, Parliament should be absolutely sovereign in all respects. It should not have to bind itself in any way or be bound particularly in any way by some sort of outside body. I think it is a really, really bad idea.
95. DR ELIZABETH VALLANCE: What would you say to those who said, "Well, that is all very well, but the immediate past has clearly shown us that Parliament has, in effect, given up the right to regulate itself, and that we have to have some proper rules, some proper objective body out there which can instil some order and structure in what has become a very disordered and unstructured kind of existence.
96. HUGO SUMMERSON: *Quis custodiet ipsos custodes*, I would say to that.
97. DR ELIZABETH VALLANCE: Indeed, and I think that the outside who will look after the individuals themselves, as you are saying; who is going to look after the regulator? But it is surely the case that if we do not talk so much about these as ideas and concepts and notions of parliamentary sovereignty and so on, there is something quite basic here about MPs having to have the structures set within which they operate. People out there now are simply fed up with what is going on.
98. HUGO SUMMERSON: I think Parliament is perfectly capable of reforming itself. I think that that reform is very badly needed in the light of what we have seen over the last few months, and I think that Parliament should put its own house in order and I do not think it should be subject to some kind of outside body.
99. JULIA DROWN: I think it has been clear that Parliament -- and it is only a minority of MPs, I am sure, who have basically lost, on behalf of Parliament, the right to do things themselves, and there clearly does have to be some kind of independent audit. I do not mind what it is, whether it is the NAO or others, or if that is deemed too much as insiders. Clearly people feel the Fees Office were not strong enough to say no to some of these things. I would not object whether it is citizens' juries, which involve more of the public in these issues

and show that MPs were representative of them, and create that as a strong body. I do not mind what it is, but clearly there does have to be some sort of independent checks now which have some real force and can stand up to even very arrogant MPs.

100. DR ELIZABETH VALLANCE: Were you aware in your own day of the Fees Office, for example, not bearing particularly strong control here?

101. JULIA DROWN: No, I was not aware of that. I would always try to make my claims absolutely clear, and some of them were questioned, particularly on children's things. There were some rules on what you could claim for your wider family and what you could not. So I always tried to get it right and I was completely fine if they phoned up and said, "That might not be quite right" and so on. It seemed to me that was okay, but clearly, from what we have seen in the press, there was not that control.

102. There were some things that you might see as not being right; for example, with us we had a flat in London and our home was in Swindon. Because it was a flat, we could not get a mortgage on it - we just could not get a mortgage - so the Fees Office were helpful there, but I think that was reasonable. They said, "Okay, so could you increase your mortgage on your current home and then the extra bit which is paying for your flat, we will pay it". So they were doing things like that. Some people might say that was fiddling the rules, but I do not think it was. It was genuinely trying to do what the spirit of the system was, which was to fund our second home. They were not doing it to fiddle it, they were trying to make the spirit of the system work, and that seemed reasonable. But I thought they were keeping a check on it.

103. ELIZABETH PEACOCK: I think you are right. I think that Parliament has lost its right to govern itself. It has shown, I think, in recent times not all of it but part of it is that they do not have that ability. I think the Fees Office obviously changed tremendously in 1998 and onwards in that there was so much more money. It would appear from reports that they were being more than a little helpful in suggesting what members might spend their money on.

104. I think it has also emerged that the Fees Office has to have very strong knowledge of the people in there, and if they are going to be giving advice then that advice ought to be strictly within the rules. There has obviously been a very lax system and I think if you have a lax system anywhere then people will abuse it. I think Parliament really is in such a disgrace; I think I would be ashamed to be a Member of Parliament in this time.

105. DR ELIZABETH VALLANCE: Can I just take up what you said in your opening statement to us, that the conduct of an MP should be subject to statutory control, with hiring and firing in the hands of possibly the Lord Chancellor, not Parliament itself. Would you like to just develop that a little? Do you mean MPs should be hired and fired in this kind of way?

106. ELIZABETH PEACOCK: No, I think that what I really was meaning was that if during their time in office they are found to have offended the system, or

whatever way you like to put it, as has happened recently, then I think there should be an authority that says, "We now consider that perhaps you are not fit to be a Member of Parliament and therefore we will perhaps suggest to your constituency that they take action on that". I think it is a difficult concept, but it was one that I was trying to work through in my own mind.

107. DR ELIZABETH VALLANCE: Would not that sort of thing be taken care of by, for example, the Committee on Standards and Privileges?
108. ELIZABETH PEACOCK: I think it could be but they have not, as far as I know in the past, taken any steps in that direction. If it could be, then that would be much better.
109. DR ELIZABETH VALLANCE: Thank you very much.
110. SIR CHRISTOPHER KELLY: Denise.
111. DAME DENISE PLATT: I just have a question of Julia Drown, please. It is about the impact of the work of an MP on family life. You have said quite a number of things about that as you have given your evidence. In your submission, you emphasised the importance of the impact and you said: "We should be prepared to pay more for an MP who has a family of five a long way away from Westminster compared to a single person living in London."
112. Can you explain how that would work and what that means?
113. JULIA DROWN: What I was doing there was wanting to argue against those people who have been saying that what we need to do is just abandon all additional home allowances and just pay one salary to all MPs and then that gets rid of all complications over claiming and they could just sort out their own arrangements. Clearly MPs are different, so it is nice that they can sort out their own arrangements, but I think that could end up with a single person who has a constituency terribly close to Westminster getting a very big salary, thank you very much, and not have to get any second home. Compare that with somebody who is living in Scotland and has a family of five and has to somehow have a base for that five in Scotland and in Westminster. That person is going to be financially much worse off. That does not feel right to me and it feels better to say, "This is the salary you are paid to be an MP and, because you have this funny function of working in two places, we will fund the additional costs of that second home".
114. DAME DENISE PLATT: That takes you into the arena of differential allowances?
115. JULIA DROWN: Well, I think there should be a maximum limit that allows you, whether you have a family of five -- if you are a single person in London, you do not expect to get anything anywhere near the maximum, but if you are a family of five, then you would probably claim more of that allowance. I would generally want to say that there might be a temptation for you as a Committee to say, "Let us just solve this by being very strict on the maximum

allowance". If that stopped people with large families standing to be Members of Parliament, I think that would be a shame. If it stopped people with disabilities, who need particular special adaptations to their homes and therefore expensive homes, standing, I think that would be a shame.

116. Similarly, I think those people who propose schemes to have an attendance allowance to get rid of second homes and say however many days you are in Westminster you get a certain sum, again I think that does not work for families because, for a start, why should you get paid more, this extra allowance, when you are Westminster rather than working in your constituency? That does not seem right to me. There are all these things happen: MPs have heart attacks and they are off for three months. They would not get any attendance allowance but they still have their house in London to pay for. Should they be financially penalised for that? Maternity leave, all those issues, so I think it is more complex than just being able to say we can solve it by just giving a general pay and attendance allowance.
117. DAME DENISE PLATT: Elizabeth, I think you wanted to come in.
118. ELIZABETH PEACOCK: I think we are into difficult territory, then. If you start to say that because you have three, four or five children then you should be paid a higher salary than somebody who has one or none, then I think that you are again saying MPs are very special and therefore their families are special. If you are out in the real working world, it does not matter what your family circumstances are, you are always paid the same.
119. JULIA DROWN: I am not saying it is thoroughly different, I am saying that you just have a claim. You will naturally claim more, just like if you were sent, as part of your employment, to China or something. The company would often pay for your Chinese home, which would be bigger if you had a family of five than if you were a single person in China.
120. ELIZABETH PEACOCK: I do think it is getting into dangerous territory, and I think, in the past, provision has been made for somebody with a disability. I was in the House when David Blunkett became a Member, and at that time, because of his blindness - which he coped with very well indeed - his office costs I think were trebled so that he could have the extra staff plus all the necessary equipment that he needed, so that everything that was parliamentary was immediately translated in his office into Braille so that he could manage just as anyone else. So I think that provision is there for somebody with that disability.
121. DAME DENISE PLATT: I think what you are saying is that there should be a maximum amount for an allowance which, if you are a single person, you would not claim to the maximum. If you had a family you might claim more of that allowance, which would mean some level of arbitration as to whether your claim was reasonable in terms of your family circumstances. I hear you saying that is a dangerous route to go.

122. ELIZABETH PEACOCK: I think it is, yes; I think it is.
123. JULIA DROWN: It is effectively the system that has been operating now through the second home allowance. It is just if all MPs treated it - as a majority of MPs have treated it - properly and using the proper spirit of it, I do not think we would be in the problems we are in at the moment.
124. DAME DENISE PLATT: You also make a suggestion that there should be an MP's office in the constituency which, no matter what flavour of MP is elected, should be the MP's office. Some others have made that suggestion to us. Can you tell us a bit more about the advantages or that or the disadvantages?
125. JULIA DROWN: For me the advantage would be as a newly-elected MP you do not have to spend the time trying to set up and have the allowance. Also, one thing I did sometimes feel uncomfortable about as a Member of Parliament was the distinction I always wanted to make between my political work as a member of the Labour Party and my work as a parliamentarian representing everybody in the constituency. As it happened, my staff were committed to the Labour Party, but they did not have to be and so sometimes they would get involved in party work. I would always want to make it clear that when they were doing party work that was their own voluntary work and it was not what I was paying for as part of their parliamentary duties.
126. It would be attractive to me if there was a parliamentary office, not only to make it simple to constituents - that is where you always go, whoever happens to be representing you - but it would help also split off that that is where all the constituency and parliamentary work is. When you are doing your party political work, you do that in your own offices. I think there are occasions in all the parties where that gets very blurred and, you know, "Is this person really being paid by Parliament to do what is political work and party political work?"
127. I did try to sort out with the Fees Office a way of paying my staff's salary - a proportion of them - so that I would feel absolutely clear that if they were doing party or political work or personal work for me they were being paid separately by me or the political party. But it became too cumbersome and too difficult. I suppose in that way the Fees Office said, "Look, it is just not worth it. Everybody does it, 5 per cent or whatever, do not worry. They are all doing overtime anyway, I expect. Just let us pay you properly on the normal parliamentary contract". I suppose in that way you could say the Fees Office might be bending the rules, but they were not. I can see how there should be a system that you should just be able to easily fund part of that so everybody can properly establish, and it should come out in the open how much time everybody is spending on political work compared with parliamentary work.
128. DAME DENISE PLATT: Thank you.
129. ELIZABETH PEACOCK: I think that is very difficult to monitor and that has been one of the great criticisms, certainly in the North of England, that a lot

of this parliamentary money is being fed into party political offices and work. Certainly the staff that I had during my time in Parliament who worked in the constituency never, ever did any party political work. It was straightforward; they just did not do it. They worked for me and that was it.

130. DAME DENISE PLATT: Okay, thank you.

131. SIR CHRISTOPHER KELLY: Thank you very much. That was extremely helpful; thank you for your evidence.

GARY LEWITT, DIRECTOR, ORGANISATION AND MANAGEMENT DEVELOPMENT, MINISTRY OF DEFENCE AND GROUP CAPTAIN CAROL SMITH, ROYAL AIR FORCE

132. Our next witnesses are Mr Gary Lewitt and Group Captain Carol Smith from the Ministry of Defence. You are both very welcome.

133. The reason we have invited you to give evidence is that a number of people have suggested to us that MPs could do a lot worse than to copy the arrangements that the Ministry of Defence operates for service personnel who move to London to work in the Ministry of Defence. Would you like to comment on whether or not that would be a sensible proposition?

134. GARY LEWITT: Thank you, Mr Chairman; I am grateful for the opportunity to comment this morning and to give evidence. I have brought with me Group Captain Carol Smith, who is much more experienced in this matter than I am. I have only about six to nine months' awareness of these issues and responsibility for them.

135. The system we operate in the three armed forces reflects the entitlement that members of the services have to be accommodated at or near their duty station. That is part of the terms and conditions of service. We normally do that through the provisions of public housing, either service families' accommodation, in what you and I would recognise as a house, or single living accommodation. That can be either blocks of flats or officers' or junior ranks' or sergeants' mess.

136. In London and in a number of other locations where there were headquarters, the provision of public housing like that is insufficient for demand, so we do, in those circumstances, a number of other things. For homes for personnel with families, we will often bulk hire a block of houses in part of an estate near the headquarters in question. The alternative to that is to run what we call a substitute accommodation scheme, which is essentially to hire in the open market a system that seeks to replicate, broadly, the entitlements that an officer or another rank would be eligible to whilst living in a mess or in service families' accommodation, but to do so in constrained circumstances which constrain the total cost of that accommodation with reference to open market costs.

137. SIR CHRISTOPHER KELLY: Thank you. Did I understand from that, that the Ministry of Defence preference is always for the Ministry of Defence to own the properties, but that where that is not possible, you go into the private rented market?
138. GARY LEWITT: I would have agreed with you entirely if you had not used the word "own" in that sentence. Most of the families' accommodation in England and Wales is actually now owned, following a sale in 1996, by Annington Homes. It is a PPP, a public-private partnership. Most of the single accommodation - blocks of flats or mess accommodation - is actually still owned by the Ministry of Defence. In Scotland all of the estate, single and families' accommodation, is owned by the MOD. Abroad, much of the estate in Germany is actually owned by the German state. But the bottom-line answer to your question is yes, had you not used the word "own".
139. SIR CHRISTOPHER KELLY: But the reason for going into the partnership is because the Ministry of Defence wanted to rid itself of the responsibility of managing the properties?
140. GARY LEWITT: You place me in an invidious conversational position, Mr Chairman. The reason for the sale in 1996, long before my time, I understand was a mixture of a belief that the estate would be better managed outside the public sector, and an opportunity to raise a sum from a capital sale.
141. SIR CHRISTOPHER KELLY: I understand that at some time in the past, service personnel coming to London were given a flat-rate allowance to make their own accommodation arrangements, and that was ended some years ago. Why was it ended?
142. GARY LEWITT: There are two sets of reasons behind the demise of the lodging allowance scheme which ran up until 1997, and they relate to cost control and tax liability. I will take them in reverse order. The scheme we were running created a tax liability for personnel, as I understand it, long before my time but this is my understanding. The department's standard approach in those circumstances is to gross up an allowance. That becomes very expensive because in order to ensure that the recipient is receiving £1 worth of allowance, if they are a higher rate taxpayer, you are actually spending £1.68. It becomes a very expensive way of doing business.
143. The second set of reasons was about constraint; moving from a lodging allowance which was a system whereby individuals received a block of money and they could essentially procure their own accommodation. Some spent up to that money; some spent considerably less. What was, therefore, done in 1997 was to move away from that system to the current system in which accommodation is hired from the private sector against a set of open market price limits. We will set the limit that an individual is allowed, that a property is allowed to be rented for with reference to the open market.
144. SIR CHRISTOPHER KELLY: Thank you. This is probably an impossible question but you have given two reasons for the move one of which

is the tax difficulties. If the Ministry of Defence had been able to have a specific exemption from tax on the benefit in kind in the way in which MPs have a specific exemption, do you think the same decision would still have been taken?

145. GARY LEWITT: That is a very good question, Mr Chairman, and it is not an impossible question. As it happens, I have the tax rules here. Under the Income Tax Earnings and Pension Tax 2003, the following classes of employee now get living accommodation exemption including Ministry of Defence Police but also now including Members of HM Forces.
146. I understand that was not entirely the case at the time the lodging allowance was changed in 1997 but having set the current scheme, the current scheme works for us. It meets two key concerns. It replicates so far as possible the entitlement that a service person would have if they were living in publicly provided accommodation, family accommodation or single accommodation on the base. That is very important in an organisation in the services where the concept of all of one company, the band of brothers, is important. It also enables us to do that within a constrained system; maximum entitlement set against geographical vent or ceilings. Those are two key features which the current system does provide for us and we let the contract for the current system last year precisely because it was suiting our purposes reasonably well.
147. SIR CHRISTOPHER KELLY: In the case of MPs, it has been argued to us that, other things being equal, support of mortgage interest ought to be cheaper than support of rent. I suppose the parallel for the Ministry of Defence would be owning the property whether directly or through some form of partnership might be cheaper than renting a property. Have you looked at that choice?
148. GARY LEWITT: I cannot prove it but I suspect you are right where the requirement is known and is enduring. If you look in an area where there is a large military population that you can confidently expect is going to be there and we go through our entire estate trying to work out the core estate, then try and work out where we expect not to have a long-term presence.
149. In those parts which are core estate, you can be confident there will be an enduring demand over at least 30 years for a military base and hence for housing. We are spending quite a deal of money on upgrading service families' accommodation and have done so since 1996 and, particularly over the last eight or nine years, significantly more money upgrading single accommodation.
150. SIR CHRISTOPHER KELLY: I am more interested in officers posted to London where you must have an expectation that there will, over a sustained period, always be a demand.
151. GARY LEWITT: Yes, you are right; always a demand over a sustained period. What is more difficult to ascertain is the level of that demand. For

example, when I joined this department 20 years ago, we had 19 buildings in inner London. In two years time, we will have one. The demand over time can change. The number of people in a building can change, particularly in headquarters with a military and civilian mix. In those circumstances, add to which the difficulty of buying building land and building on it in London is very difficult, there are a number of estates we have; one in Kingston, there are some from the old RAF estate in North London, but the requirement particularly for senior officers at Colonel and above in inner London considerably outruns the estate. That takes us to the scheme we run called Substitute Service Single Accommodation.

152. SIR CHRISTOPHER KELLY: The other characteristic of that scheme is that you employ a commercial renting organisation to run it for you. Why did you take that decision rather than doing it yourselves in-house?

153. GROUP CAPTAIN CAROL SMITH: May I just go back to the previous question and give you another dimension on it as well? Trying to understand the mix of those who will serve unaccompanied and those who will serve accompanied is also a factor within it. That means the numbers we have living in London in either single accommodation or family accommodation varies considerably because people make different choices at different stages during their careers and we cannot influence that choice. As a consequence the balance shifts quite markedly almost on a rotation of postings which quite often happens during the summer because that is the sort of time when people will move because of children and education. That is another reason, another factor behind not necessarily being able to purchase accommodation in the knowledge you are always going to be using it.

154. SIR CHRISTOPHER KELLY: The question as to why you employ a commercial agency rather than doing it in-house?

155. GARY LEWITT: Why do we employ a commercial agency? There is quite a high demand for substitute accommodation. There are about 15,000 substitute family accommodations and about 5,000 to 6,000 single accommodations. We employ a company to do all the work for us in sourcing that accommodation, to do the work for us in managing that accommodation and to act as the landlord. Essentially, it means the service person has those functions done for them just as they would have those functions done for them if they were in a Mess. It goes back to the principle I was talking about earlier of replicating the conditions you would find in a Mess.

156. SIR CHRISTOPHER KELLY: You could replicate that and still have the work done in-house by the Ministry of Defence.

157. GARY LEWITT: Yes, we could. Our usual approach in these circumstances is to tender on the open market in the expectation that maximum value will be delivered by a commercially sourced product. In fact, part of the equation is done by a mixture of civil servants and military personnel in the joint service accommodation cell in Gosport which manages the payment of utility bills and the receipt of claims by service personnel to enter, to be

accommodated in SFA. Rather than act as a landlord ourselves and act as a flat finder ourselves, there are commercial companies who can do that business for you and who can do it better than we can.

158. DAME DENISE PLATT: Can I ask you a few practical questions arising out of that and one specifically to start about the commercial letting agency? How does that work in practice? You talked about they source, manage and act as landlord. Can you talk us through some of the steps the agency goes through? Who has the contact with the family? Where does it start and how does it go forward?
159. CAROL SMITH: The first point is when you know you are posted to a specific location, you identify through the units at that location whether there is any accommodation available. If that accommodation is not available, there are two different routes depending on whether you are going for family accommodation or whether it is single accommodation. If it is family accommodation, that is done through Defence States Housing Organisation and if they cannot accommodate you and your family, they will issue you with a non-availability certificate. That enables you then to apply for the substitute family accommodation.
160. On the single side, it is slightly different because it is the unit that owns the single accommodation, so it is the unit that will issue you with the non-availability certificate and allow you as an individual to apply for accommodation. There are a number of forms you fill in. It is not huge; it is not particularly onerous. That form is a start point and it has to have financial approval, so you have to have the budget holder's financial approval as a single person because that budget will pay for your accommodation.
161. In the Defence Estates side of things for family accommodation, that still has to have approval of your chain of command because they have to be aware of where you are going to be living.
162. That then goes through a process through the accommodation cell which is staffed by civil servants predominately. They check everything has been done. That then goes to HCR who are the agents who will source the accommodation. It is at that point, when they have that piece of paper in their hand that has been approved and is sanctioned, they will make the direct contact with the individual or the family. That relationship then starts to build from there. You are allowed to make some statements about what you would like, if you want to live in a specific area; but they are not under any remit to meet that. You simply specify what you would like. They will then go out and source two options and you, as an individual, are allowed to go and look at those options.
163. On the family accommodation side, it is not always feasible to source two and quite often they will source one but it is to a strict entitlement, so it is a size of property to meet that individual's entitlement. That is exactly the same for single accommodation. There are set parameters for you as an individual

depending on what your circumstances are.

164. DAME DENISE PLATT: What would they look like? How do you decide?
165. CAROL SMITH: It is done effectively by rank. For single accommodation, it is done by rank and there are five different grades. As a junior rank, junior officer, as a senior NCO, as a corporal below, generally you will be expected to share. Above that, once you obtain senior officer level, Major, Squadron Leader, then you are expected to be given a property on your own; a one-bedroom apartment. Again, it is for them to source, so they are within that remit. Also they have a financial ceiling which is based on the average cost of providing that size accommodation in that particular area. They have to source within that rental ceiling.
166. DAME DENISE PLATT: Does the MOD have any allowances or supply furniture and fittings through that rental?
167. CAROL SMITH: Again it is different whether it is single or family accommodation. Single accommodation; there is a statutory list provided within the landlord's requirements that he should provide for the single person or the person who is married unaccompanied. That covers everything the individual would expect to get if they were living in single accommodation on a barracks in publicly provided accommodation; it replicates that in terms of the expectations of what you would get.
168. On the family accommodation side, again it is very difficult because a lot of families will have their own furniture et cetera, so there is no distinct list but you can ask for furnished accommodation. That furniture is provided through the system, so the services provide that furniture. Again, exactly the same that happens in publicly provided family quarters. You can have a furnished, part-furnished or an unfurnished property.
169. GARY LEWITT: It is exactly the same furniture as well.
170. DAME DENISE PLATT: Who owns the furniture when the family or single person moves on?
171. CAROL SMITH: The department for the families. For the single person or the married unaccompanied person, that is owned by the landlord. It is the landlord's property and an inventory check is taken at the outset and checked back at the end of that occupation.
172. DAME DENISE PLATT: There are deposits against all of that.
173. CAROL SMITH: The service person does not pay a deposit. This is another reason why HCR provides that facility because they have the relationship with the landlord. That is the relationship. It is HCR and not the service person that has that relationship.

174. DAME DENISE PLATT: And the furnishings with the families?
175. GARY LEWITT: If it is unfurnished accommodation and the family furnishes it themselves, it is theirs, of course. If it is furnished accommodation which the department has furnished, that will be the same furniture as goes into service families' accommodation on a base; exactly the same and it will be ours at the end, just as it would be if someone left SFA having been posted to another station or unit.
176. DAME DENISE PLATT: The furniture is all the same, so it is centrally procured and supplied. Thank you very much.
177. LLOYD CLARKE: After this meeting, could you provide us with what you termed as the statutory list and also what your financial ceiling is at the moment? I expect it might be a sizeable document but keep it to the minimum, please, but it could be helpful to have that.
178. GARY LEWITT: It is only three sides of a minimum furnishing spec form.
179. LLOYD CLARKE: It would be helpful to see that. My experience of this alternative accommodation is from the RCDS. Am I right in thinking it is exactly the same because you provide that for single people and for families?
180. CAROL SMITH: For single people and those who are married unaccompanied, the assumption is your family is not with you. That is one scheme. If you are accompanied by your family, that is a slightly different scheme, so there are two distinct schemes.
181. LLOYD CLARKE: Specifically, perhaps you could let us have the information for both those two schemes.
182. A general question, and I might be asking you something anecdotal, but what do the users think of what is provided for them?
183. CAROL SMITH: I personally believe it is a very good scheme. It replicates what I would expect in an officers' mess. Because I live in London, I was able to say whereabouts I wanted to live and they were able to source a property in that location for me which gave me ready access to my own home which I own myself. I am able to get home at the weekend within two to three hours.
184. LLOYD CLARKE: Whether it is travelling or mileage, what kind of distance are we talking about around Westminster?
185. CAROL SMITH: It is a ten-mile radius; 45 minutes travelling time by public transport, so it has to be by public transport.
186. LLOYD CLARKE: Is that contained in the scheme?

187. CAROL SMITH: Yes; that is within it.
188. LLOYD CLARKE: That is helpful. As administrators of the scheme, can you please tell us how well the provision is managed, in your opinion, by your external contractor? I am asking you how you rate them but perhaps I could ask the question slightly differently. What do they do well and what would you like to see improved or what could they do better?
189. GARY LEWITT: They must be doing something well because they won a competition in 2008. What do they do well? A reasonable selection of property, meeting the requirements of the department and meeting the preferences of the individual; that is very important to us. They also do all the functions therefore neither the department nor the individual has to face the property owner. That is really important for us. I think that is all I want to say from my side. You are a user; offer a comment, Carol.
190. CAROL SMITH: I think certainly there is a degree of flexibility but they are within the constraints of the contract and, therefore, within the constraints of those limitations. I think by having somebody who is a specialist within the property world, they have contacts; they are able to source accommodation quickly because they build those relationships with landlords, with letting agencies.
191. From that perspective, it develops a scheme that having someone like them delivering it rather than trying to do it in-house where we would be potentially always changing people around; it has continuity as well. Yes, they did resubmit their tender but it is a leveller of complaints as well. Certainly they provide a very good service in terms of response if there is an issue with anything to do with the property, so you have a contact, you have a name, you know somebody you can go to and I think that is quite important as well, rather than it being the landlord who you are trying to do battle with potentially to get things done. You are going to an agency that has that sort of clout to turn round to the landlord to say it has to be done.
192. LLOYD CLARKE: A glowing report. What could they do better?
193. CAROL SMITH: That is quite a difficult one to answer in real terms because the day to day management of it is not necessarily our responsibility. There are areas where they cannot always source within the ceiling and sometimes the individual ends up paying more. That makes it quite difficult. If they had more knowledge of the numbers of people, and we cannot always give it to them, they could get block type rents which is quite difficult at the moment simply because we cannot tell them the number of people they are likely to have on their books from one years' end to the next. That would improve in terms of cost effectiveness if they could find a way of doing that. Also, they have to sometimes be less user-friendly to the individuals perhaps and recognise the scheme is there to meet two remits.
194. LLOYD CLARKE: A final question. If an individual chooses accommodation over the ceiling cost, how is money paid there? Does the

individual pay the letting agent the difference between that which the MOD would pay or do the MOD pay the allowance to the individual and the individual pays the sum total to the letting agency?

195. CAROL SMITH: No. If it is above, the individual pays it to MOD and MOD pays it through the agent to the landlord.
196. LLOYD CLARKE: It is the MOD chasing the money and not the letting agent chasing the individual.
197. GARY LEWITT: We pay them anyway, so it is very easy.
198. CAROL SMITH: It is direct through pay. Immediately you accept it is going to cost more, then you sign to say you accept that and it is deducted from your salary, so it is deducted at source.
199. DR ELIZABETH VALLANCE: You talked a little bit about the tax implications. Can I ask you a very specific one? Given this accommodation is subsidised by the services, what are the tax implications? Is this a benefit in kind, for example?
200. GARY LEWITT: It is not a benefit in kind and ITEPA explicitly states that. It is part of the Ministry of Defence's requirement to provide accommodation for personnel who are entitled.
201. DR ELIZABETH VALLANCE: Sometimes if you have a tied cottage, there are no tax implications. You are saying this is part of doing the job, if you like and so it is not seen as a benefit.
202. CAROL SMITH: It is predicated on the fact to be efficient in doing the job, you have to be accommodated within a certain distance of your base. That is why there is the premise on it. That is why we have that constraint on the distance and time.
203. DR ELIZABETH VALLANCE: That is helpful, thank you. Individuals are staying in this accommodation away from their family and, if this is the case, then is there any provision for them being able to travel home and be paid for this? If so, how often?
204. GARY LEWITT: Yes. We run a scheme called Get You Home and it funds two return journeys a month. I have officers who live in Scotland, I have others who live in the West Country and so it funds the cost of travel from London to their home and back twice a month.
205. DR ELIZABETH VALLANCE: Thank you. How about the other way; if their families wanted to come and see them, could they claim for that?
206. GARY LEWITT: The rules do allow the family to stay with the individual who is accommodated in subsidised accommodation for up to 28 days in any 61-day period. The point here is the accommodation they have is essentially

given to them on the basis they are unaccompanied and, therefore, they are supposed to be unaccompanied.

207. DR ELIZABETH VALLANCE: You are conflating two things I am interested in here. One which is where the family members travelling to see an individual would have their travel expenses covered.
208. CAROL SMITH: It is not claimed. The travel expense is not claimed on a specific journey. It is actually an allowance on a monthly basis that is given to you, so if you choose to travel home or you choose to bring your family to London, it is your choice.
209. DR ELIZABETH VALLANCE: You can use it in any way; it is flexible.
210. CAROL SMITH: Yes. It is an allowance given to you as opposed to something you claim for a specific journey.
211. SIR CHRISTOPHER KELLY: You do not have to use it but you still get it?
212. CAROL SMITH: Yes.
213. DR ELIZABETH VALLANCE: It is an allowance, not an expense. On the other issue which you raised already about how long people could stay in accommodation for the service personnel, if you had family staying, would there be a limit on how long they could stay with you?
214. CAROL SMITH: The length of 28 days is the maximum length in any 61-day period. It is accumulative in whichever way you want to bring it together. It can be batches of 7 days or it can be the 28 days in total.
215. DR ELIZABETH VALLANCE: That would be for one other individual or could you split it up?
216. CAROL SMITH: It is usually to do with a company service, so one would expect that to be a spouse or a civil partner. That is the member of family you would be looking at for it to occur in that situation. There are rules about allowing subletting and that sort of thing. If you had another member of family staying there permanently, there are rules to preclude that.
217. GARY LEWITT: The proportion of officers who choose to serve accompanied in London and move their family to London is quite small. I have had officers who work for me that do that. Of the dozen I have who work for me at the moment, I think there is probably one who is serving married accompanied. Most of them do not.
218. DR ELIZABETH VALLANCE: They would be in London during the week and they would use their travel allowance to go home at the weekend.

219. GARY LEWITT: Most of them do that.
220. SIR CHRISTOPHER KELLY: Two points of detail. When officers chose to work in London accompanied, what happens to their house in their normal place of duty?
221. CAROL SMITH: If it is service family accommodation, they will pass that back and they will take service family accommodation in London. There are packets of accommodation around London; places like Northwood or Uxbridge where there are service family accommodation. They would relinquish accommodation where they had been previously.
222. SIR CHRISTOPHER KELLY: You only support the family in one place at any one time.
223. GARY LEWITT: Correct. If a family owns a home privately, they can do what they like with it.
224. SIR CHRISTOPHER KELLY: Do I understand you to say that in all circumstances, the criterion is the accommodation provided must be within 45 minutes of the place of work?
225. CAROL SMITH: 45 minutes travel by public transport unless it is agreed that can be exceeded with the local commander. There are some instances where that is not necessarily achievable and, therefore, there is some flexibility but it is in consultation. The standard rule is 10 miles or 45 minutes by public transport. That can be extended in consultation with the local commander and the individual concerned.
226. SIR CHRISTOPHER KELLY: 45 minutes or 10 miles; whichever is the less?
227. CAROL SMITH: Yes.
228. SIR CHRISTOPHER KELLY: That rule is there?
229. CAROL SMITH: Yes.
230. GARY LEWITT: The purpose of that is quite simple. Most units do not have duplicated or triplicated capability, so if I want my aircraft to fly at one or two hours' notice, I need the people, the ground crew and the aircrew who are going to get them into the air.
231. SIR CHRISTOPHER KELLY: Even in London, it is entirely about operations. It is not an unreasonable expectation?
232. GARY LEWITT: It is about operation and effectiveness be it the crew on the ground who are preparing an aircraft or the officers in the main building in London who are controlling a mission, briefing a mission, whatever.

233. SIR CHRISTOPHER KELLY: Thank you very much; that is very helpful. Is there anything else you would like to say to us; any other advice you would like to give us?

234. GARY LEWITT: No, sir.

235. CAROL SMITH: No, thank you.

236. SIR CHRISTOPHER KELLY: Thank you very much. We now break until 12.15pm.

(Break)

BARRY WINETROBE, PARLIAMENTARY AND CONSTITUTIONAL CONSULTANT, THE CONSTITUTION UNIT AND OONAGH GAY, HONORARY SENIOR RESEARCH ASSOCIATE OF THE CONSTITUTION UNIT

237. SIR CHRISTOPHER KELLY: Our next witnesses are Barry Winetrobe from the Constitution Unit and Oonagh Gay, Honorary Senior Research Associate of the Constitution Unit. Ms Gay, we understand your position in coming to give evidence in your role as an associate of the Constitution Unit. Mr Winetrobe, you kindly gave us an opening statement which we have all read and will write into the record.² I hope you will not want to read it out but are there any points you particularly want to draw our attention to?

238. BARRY WINETROBE: No; I am quite happy to move straight along.

239. SIR CHRISTOPHER KELLY: Thank you. One of the things you say in it is the solution to Westminster ills is not less self-regulation but more. Could you expand on that for me, please?

240. BARRY WINETROBE: My view has always been that Parliament has not really been self-regulating in a true, proper, responsible, accountable sense because a lot of it is run by and at the initiative of the Government. As we have seen in the last few months, everything is coming from the Government and we have a person called the Leader of the House of Commons who is a cabinet minister. I just find that very sort of 18th Century proprietary and inappropriate to our modern Parliament. That is why I say towards the end that proper self-regulation has to be alongside a proper system of internal organisation. Despite the many reviews the House of Commons in particular has had over the last 20, 30 years, it is still basically the same organisation it always was when I first started there in the early 1980s except it has all the more modern management titles and structures in language and so on.

241. On the other hand, a lot of other things, such as the power of initiative, is still with the Government, as I said. Legislative initiative; this is a Government Bill. It is not something that Parliament is putting forward for its

² The statement is appended to this transcript.

own reorganisation. That is why I suggest Parliament could look at ways of having its own legislative initiative like committee bills as they have in the Scottish Parliament. Alongside that, other bodies, including you, are basically government bodies. You are independent but you are fundamentally government bodies. I think everybody else is running around reforming Parliament except Parliament. I would like to see Parliament becoming properly responsible and if it becomes fully responsible for itself, then by definition, one hopes they will become more responsible in the other sense as well. They will become more accountable, run themselves more sensibly.

242. The cumulative effect of all these various factors that have grown up over hundreds of years - executive dominance, exclusive cognisance and parliamentary privilege - has just bred a culture of internality; this idea they are cut off from the rest of the outside world "what does what we do have to do with anybody else outside?" This whole expenses' thing has finally blown that out of the water. To react by just giving it all away is totally the wrong way to go on.

243. SIR CHRISTOPHER KELLY: Thank you. I understand the point about Parliament needing to reassert its authority against the executive which is the root of what you have just said. In terms of the simple proposition that responsibility for setting the level of allowances should be taken away from Parliament and given to somebody else and that the people whose job it is to enforce regularity in the claiming of expense should no longer report internally to Parliament, are you quarrelling with those propositions?

244. BARRY WINETROBE: There are two different things. Part of the problem is what we mean by "parliament"; especially in this case, the House of Commons because much of what Parliament does and how it operates have the inherent government majority. There has to be ways in which Parliament can operate institutionally without the government majority having the last word and very often the first word.

245. What I have argued and all I am really repeating is what your initial Committee set up which was this idea of self-regulation buttressed with an independent element. I think that is the way forward. Because something is self-regulated like a parliament especially, it does not mean it has to do everything in-house. It can have outside bodies or arms length bodies doing things but on its behalf. I think there is a difference and this is where we should be having the discussion. Unfortunately, the Government has pre-empted most of it with the Bill but we should be having a discussion of does that require a wholly independent statutory body totally separate from Parliament; does it require a delegated agent on behalf of Parliament - it is a bit like an executive agency is to a government department for example - or are we looking something in-between? In the House of Commons Commission, for example, there is a statutory body but it operates to all intents and purposes as an in-house thing. The actual location of it is something to be examined and these are the sorts of things that have not been examined properly yet. I think there is still an argument for self-regulation but not to be done directly. It can be done on your behalf at arms length. It is still ultimately responsible to

Parliament.

246. SIR CHRISTOPHER KELLY: I am sorry to press you on this. I am still not quite sure I understand your position on the two basic things. We are all conscious of the many difficulties with the bill and the constitutional arguments that have arisen in relation to it. I am still not clear whether you are saying we should not take away from Parliament the right to set the level of its own expenses and to police them or whether you are saying we should do that but there are simpler ways of doing it?
247. BARRY WINETROBE: There are simpler ways. One can say a body like you or the SSRB or somebody does a review and Parliament agrees to abide by whatever decisions are made. I think that is different from saying the actual nitty gritty of what used to be called the Fees Office, the actual administrative mechanics of something that no longer belonged within Parliament. That seems rather a blunderbuss approach and it seems a very strange principle. If Parliament ran itself internally properly, there are bits that could well stay. I do not see why that all has to go with the regulatory or the investigatory aspects.
248. SIR CHRISTOPHER KELLY: Why is the bit about the Fees Office the strange principle? One of the difficulties is that in a private sector or a public sector organisation your expenses would be signed off by someone in a position to do so and there would be a finance department capable of identifying things that stood out, things which were outside the rules. The argument has been there is no one in the House of Commons competent to sign off the expenses of an individual MP and the way the Fees Office has been structured and its lines of accountability mean it is less than completely effective in policing in the way a normal finance department would be. Are those odd principles?
249. BARRY WINETROBE: I think your initial point made the case. Most of these things are done by an in-house finance department. If you are saying the Fees Office has failed to do that, my argument would be yes but that is part of the overall failing of the parliamentary culture that parliamentary staff are not encouraged to speak back to members; they are not encouraged to say no to Members. Members get very upset if they are questioned by staff, never mind very senior staff; they get even angrier if they are questioned by what they regard as very junior staff. There is this culture of Honourable Members and all this sort of thing which I am not querying and that is why I queried what you say about competence. Of course there is competence within the Department of Resources or whatever it is called nowadays. It should be reformed and have proper lines of accountability so it can act as a proper, robust and effective payroll and finance office. I do not see why that sort of thing necessarily has to be put outside. Setting allowances, dealing with many appeals and claims and that sort of thing, contested claims, are the next level up. The review of ethical standards if rules have been broken; that can have an independent element and that is something in which external or arms length bodies have a role. This idea of shoving everything together has been not very

well thought out.

250. DR ELIZABETH VALLANCE: Can I just take you up on what you have been saying? It is very interesting because you are not saying there should not be an independent element. You are just saying it is extremely important how that is integrated into the rest of the parliamentary culture and structure.

251. Would you have felt differently about this bill if it had been called the Parliamentary Payments Bill or something rather than Parliamentary Standards Bill? Is it the idea it is not just about the practical things that the Chairman has been talking about but has the implication behind it of all sorts of ethical standards and values and so on?

252. BARRY WINETROBE: No, I do not think so. Only in the negative sense that, if you look at it from the pure payroll side of things, then you could apply that to any other part of the service. You could completely outsource the information services, the kitchens, the security or whatever. I do not think there is any real argument there for outsourcing that.

253. There is an argument for reforming it and I am arguing you need a far more fundamental reform within Parliament so you can have strong and robust structures and lines of accountability so that staff and officers can say, "This is wrong" or "No" and things like that. I do not think it is a question of the ethical side. The standards' regulatory system in its present form has been there for nigh on 15 years and it is known whether it is working or not. Arguably it is working reasonably well. Part of the problem with financial things like an expense is that it has become treated like sleaze and standards and ethical things rather than clerical accounting or misclaiming or whatever. They are totally different things. It has all been wrapped up with the same thing. I do not think the idea they have been called Parliamentary Standards really makes any difference.

254. DR ELIZABETH VALLANCE: What I was getting at was that your objection is not to do with the practical outsourcing of checking and paying or whatever.

255. BARRY WINETROBE: Yes. Parliament itself can outsource. I am sure it does outsource. It is getting the structures right. That is why I was quibbling slightly with the Chair's use of the word "competency" in that technical sense. There are the skills there. It is being able to deploy them within a robust structure that allows you to do that.

256. DR ELIZABETH VALLANCE: Dr Gay, what is your take on this?

257. OONAGH GAY: I think the IPSA combines two functions. As you say, it is the payment of allowances; the House is well used to contracting out. For example, my own staff pension is contracted out but there is also the whole regulation of standards which is where you get into quite difficult constitutional territory as the government have obviously been discovering as the bill goes

through Parliament.

258. Because there is evidence of very, very speedy policy development in this Bill, that perhaps a little bit more than --
259. DR ELIZABETH VALLANCE: You mean it has been rushed through?
260. OONAGH GAY: Your words. One would have hoped perhaps for a little bit more pre-legislative scrutiny in which we could tease out some of the concerns. One of the issues is you could have a completely independent body that looks at allowances. I do not think there is much argument about that. One could argue that it seems excessive to actually have an Act of Parliament simply to contract out the Finance Department. There seems to be broad political support for that. Where there is quite a lot of confusion is where you get into the regulation of members themselves because obviously you come up against exclusive cognisance. You are treading on some quite difficult constitutional territory.
261. The other thing which has struck me about IPSA is it is very much an enforcement role. If you look at the way in which ethics' bodies develop, they often start off with an enforcement role but then they realise you have to invite a culture of good ethical practice. As an ethical expert, I would like to see something about IPSA's role in promoting good practice which I do not think seems to be in the bill at the moment.
262. DR ELIZABETH VALLANCE: Your worries are constitutional because of the way in which this Bill seems to ride roughshod over the constitutional niceties, if you like. Also you have concerns about the fact it has everything in it and there are duties which IPSA might have which are either confused or conflicting.
263. OONAGH GAY: We have not seen how it will operate in practice but if you look at a body which does combine these roles, such as the Charities Commission, that has an excellent good governance model in which the different roles within it are perfectly clear. There has recently been legislation on charities which has been subject to a good deal of very informed pre-legislative and then parliamentary scrutiny. It is recognised when you set up a new body, you basically only have one chance.
264. The Parliamentary Commissioner for Administration, the Parliamentary Ombudsman, was set up in an act in 1967 and ever since then, successive ombudsmen have been trying to change that primary legislation but do not get a legislative slot. If it is not possible to do pre-legislative review, there is the other option of post-legislative review which I know has come up during the passage of the Bill, or two-stage process. There is broad political agreement to set up an outsourced independent payments body but I sense there is much more disagreement about the regulation of standards. It does strike me that when you set up these sorts of bodies, it is fairly ambitious to expect all of that to be done by 1 January which I gather from Jack Straw is the implementation

deadline.

265. DR ELIZABETH VALLANCE: How would you stand on a sunset clause?

266. OONAGH GAY: As I have said because you only get one bite of the legislative cherry, it may well be a good idea because it will require some form of post-legislative implementation. I do understand once you bring a new body into existence, when it has only just begun to function, it is quite hard to then wind it up.

267. BARRY WINETROBE: Looking at it from one respect, under the normal criteria we use for constitutional watchdogs and their accountability, a sunset clause, especially a very short one, could be positively harmful because it risks the complete independence of the body. It knows if it rattles too many cages, the people it is regulating will just say, "Right, we will abolish you" or "We will cut you down to size". I think there is a real risk of affecting its independence if you have a sunset clause especially one of a year as has been suggested, but even one of a few years. It is the same argument as about terms of appointment or reappointment.

268. DR ELIZABETH VALLANCE: Frying pan into fires.

269. BARRY WINETROBE: Yes.

270. DR ELIZABETH VALLANCE: Can I ask you both about some of the practical things? If there is going to be an IPSA or an equivalent body, the important thing is clearly it should be independent. How that works with Parliament in terms of the constitutional arrangements is a different thing but if it is possible to concentrate on the body itself at the moment, it is important if it is going to restore public confidence that it is and is seen to be independent to that extent of Parliament itself. It seems to me there are concerns around specifically three issues. One is making appointments to IPSA. Two is the funding of IPSA and three would be its accountability. Can we take these one by one and do you know of any examples in public bodies already in existence where appointments, for example, could be made so that they were overtly independent and were not being agreed to by the very body that was then regulated?

271. OONAGH GAY: This is always a difficult area in watchdog design. It is a very old question; who guards the guardian? Somebody at the end has to make those appointments. I think we would argue it is probably better it is a parliamentary involvement rather than the executive involvement which tends to be the alternative.

272. DR ELIZABETH VALLANCE: At the moment, the suggestion is the Bill should go back to the Speakers' Committee.

273. OONAGH GAY: That is right which would be a parliamentary body with a back bench majority. That very much follows the model of the Electoral

Commission. You have heard from witnesses before that that has not always run as smoothly as it might do. It is difficult to find a more attractive option than that without some fundamental constitutional changes, without having some form of Council of State as they have in France where you could have elements of the executive, the legislative body and the judiciary making such appointments. That still gets you back to the point of if you have a completely independent body making appointments, is there any accountability at all? IPSA is going to be a quango and we can be sure that a few years down the line, it will be attacked as an unaccountable quango which is the other side of being an independent quango. It is a very difficult balance. The short answer to your question; no, I do not think there is a more effective model than this. Each model has its flaws.

274. Can I just say something about funding?

275. DR ELIZABETH VALLANCE: I will come to funding.

276. BARRY WINETROBE: Can I just say that that is what we found when we have been struggling with this issue for the last six years or more. We are still at the stage of asking these questions about institutional design because nobody wants to do or can do the really hard work of solving these apparently unsolvable problems. We said that in our recent work especially when the body is Parliament itself that is being regulated, because when it all comes down to it, you have to draw a line at 'Who guards the guardians of the guardians of the guardians?' There is a point at which you have to trust somebody.

277. Other than the courts, there are not really any higher bodies within the state, and Parliament, one must remember, for all the criticism, is itself our ultimate constitutional watchdog. It has the greatest claim to legitimacy because it is a democratic body. Therefore, this is why I say you need more self-regulation because you need to make it a body worthy of the trust that people should have in it and the responsibility to do it properly. That is why I said this at the beginning. It may have sounded constitutionally airy fairy, but it is not. There is a difference between Parliament the institution, the symbol, the democratic representative assembly, and the day to day body that has that government majority that passes legislation and the dates and so on. If you make a strong parliament, you have to trust it with these sorts of things or the only other alternative is again to go completely outside, to have a completely independent body that does all watchdog appointing, funding and so on including yourselves.

278. DR ELIZABETH VALLANCE: Thank you. What has been suggested to us is that the First Civil Service Commissioner might be involved in the appointments' process. Is there any precedent for that in your understanding?

279. OONAGH GAY: No. I would not necessarily oppose it but such appointments are already subject to the OCPA code and there is already involvement from the Public Appointments Commissioner. It seems to me slightly double-hatted. If we already have a procedure which is open and

transparent for making senior public appointments, I am not quite clear of the role of the Civil Service Commission although I would not necessarily say it was a bad thing. I just think it seems a step too far.

280. DR ELIZABETH VALLANCE: Yes. The suggestion was it would take the role the Speakers' Committee is supposed to take in this case now and that OCPA itself sets the framework but does not do the appointing.

281. OONAGH GAY: I think we do have to be slightly wary of creating a body that is so independent it has no contact at all with people it is regulating. I think that is something we have learned over the years and many professional bodies, when they are disciplined, have a mixture of the professionals so they know what they are talking about, but with an independent element. I do think we need to be wary of moving too far away from any parliamentary involvement because it is almost like saying we cannot trust members and that is not a good start for a body like this.

282. DR ELIZABETH VALLANCE: Especially not if what you say you are about is trying to change the culture.

283. Can I just turn to funding which you mentioned? It has been suggested to us that one might be able to fund this directly, say out of the Consolidated Fund or something. Again, are there precedents here?

284. OONAGH GAY: Oh, yes. I mean, both the Electoral Commission and the National Audit Office are. There are three different ways you could fund it. You could fund it from a departmental vote, as your Committee is funded. There are problems with that, because I know the Cabinet Office a few years ago tried to have a 20 per cent cut all around, and the Cabinet Office watchdogs had to fight quite hard to get excluded from that cut. You can fund from the Consolidated Fund, which I think is a much better solution, or you can do what the Scottish Parliament did, which was to fund its own watchdogs out of its own estimate or budget. Therefore every time a new watchdog was created in Scotland, the parliament's own budget was squeezed, so you immediately start getting quite difficult pressures about how many watchdogs to have and how many watchdogs and resources they should have. As I read the Bill, that is the model that the Government followed. No, it is not the Scottish way, it is the Consolidated Fund, so I do think that takes away the concern that Parliament might squeeze the money from it.

285. DR ELIZABETH VALLANCE: Absolutely. As far as accountability is concerned, do you see the suggestion that this should be an accountability to Parliament via a report or whatever as being the best way? Again, it is the Speaker's Committee, apparently, that would be the body to which it would be reported.

286. OONAGH GAY: I think it is quite useful to have a body which is separate from the Select Committee, say which might take an interest in the policy area, to have a body which has some specialism in actually reviewing

budgets, looking at corporate plans. What slightly surprised me about the Bill was creating a separate Speaker's Committee for this institution when there is already one for the Electoral Commission, and one does rather wonder whether there is enough parliamentary personnel to go around. The Liaison Committee has been already saying that there are far too many Select Committee places and not enough members prepared to serve for more than a few months. You do need continuity with a body like the Speaker's Committee, so you get expertise. So that might be something you might want to look at. Any watchdog has to justify its existence to the public, so there needs to be sufficient funds for that watchdog to explain its role. That is not something yet developed in the Bill that is going through Parliament, but that might again be an area that your Committee could explore.

287. What we have found and what the Public Administration Select Committee found in its review of watchdogs is there is a lot of public confusion. There are a lot of different watchdogs and the public are confused about which watchdog does what.

288. DR ELIZABETH VALLANCE: We have actually tried to map precisely in this way as we have gone along what these various bodies are and what they are doing presently. But as you say, it is very, very difficult.

289. OONAGH GAY: It is quite complex, and that does worry me, because you do need visibility in order to build any public trust.

290. DR ELIZABETH VALLANCE: Thank you.

291. LLOYD CLARKE: Could I just ask a question for clarity, please? You said a little bit earlier regulation of standards is a much deeper-seated issue than that of providing administration. I understand that, but in respect of the ethics, the probity element of it, how would you design that? What would it be that specifically looked at that element of it, rather than the administration of everything else? It seems to suggest to me that when you said that, you maybe had something in mind.

292. OONAGH GAY: Well, I think the first Nolan Committee designed a carefully crafted method in which an independent element would be introduced into parliamentary self-regulation to inquire into the conduct of members.

293. LLOYD CLARKE: Has that failed?

294. OONAGH GAY: I am not aware that it has failed. I mean, there have been issues and I read the evidence that you have received from Sir Philip Mawer and Elizabeth Filkin. There have been some implementation issues, but I am not aware that it did fail. So the Bill brings in a statutory commissioner on top of a non-statutory commissioner, and as we have seen in the debates, there is some suggestion that one commissioner would fulfil both roles. I am not sure how that would help with clarity with the public. The Nolan solution was not popular initially, because members were not used to any regulation, but I think after a new Parliament in 1997, it did build a lot of confidence in the

people in which they regulated. I do think when you have a system of regulation, the people being regulated need to trust in it and to believe in it, but there needs to be sufficient independence clearly to reassure the public. As I say, I am not aware that this is a model that has failed. When you look at what has happened in Canada, they have very much followed our model here, and it has been studied with interest across the Commonwealth.

295. LLOYD CLARKE: At the moment, the Parliamentary Commissioner can only investigate as a result of complaints, and therefore cannot proactively, as it were, investigate. Would that be a reasonable step forward, irrespective of where that role sits or whatever else?

296. OONAGH GAY: I think that is certainly worthy of exploration. One could refine the details in which the Commissioner operated, and expand the remit. It was not until Sir Philip Mawer really got into the detail of allowances that it became clear that allowances were really the subject of the Code.

297. LLOYD CLARKE: What he might have done is to actually investigate further and take the issues further if he had that authority to investigate, rather than just waiting for complaints.

298. OONAGH GAY: Yes. I mean, your Committee looked again at this in 2002 and buttressed the independence further and reduced the possibility of political pressure by making sure that the Standards and Privileges Committee was not governed by a government majority and that there were not PPS's on that Committee. One could have imagined an evolution where this Committee might have recommended further evolutions along the lines you have suggested, but this now is cutting across the current Parliamentary Commissioner and that is where some of the tension has come from. I think that leads back to the rapid policy development that we have seen.

299. BARRY WINETROBE: Well, I think this is getting to the heart of it, and it is where lots of different but overlapping things need to be unpicked. I probably did not explain myself very well at all at the beginning when I was talking about the difference between the allowances side and what your colleagues call standards. I am not propounding definitions, but there is a difference between what might be called 'interests' and what might be called 'resourcing', and the two have got really mixed up, partly because of the system that has been devised, partly because of how the media treat it - partly because of the sheer party political way that the Members treat it, of making complaints against Members of the other party. Now, interests and bribery questions, all that sort of thing, are fairly clear-cut. I mean, it is difficult but it is clear-cut, and that is really what engages the sort of high constitutional stuff about privilege and exclusive cognisance and self-regulation in that high constitutional sense.

300. But what you are doing is looking at MPs' resourcing, and if you have bodies that are totally independent, who are not asking questions like, "Have you stolen money by claiming for things you should not be claiming for?" but people who start querying how MPs do their job, "Do you really need to do

this? Did you really need to spend that?" all that type of question, that is where you get your difficult issue of having a totally independent body. That is not a question of high constitutional principle, parliamentary privilege or anything. That is simply the need to be regulated by somebody who understands what you are about, just as you cannot come up with any proposals without actually knowing what it is that MPs need to be resourced to do.

301. There is no concept in this current Bill, for example, of that sort of separation, and I think that is where the real difficulty is. That is the risk that Oonagh was saying about total de-politicisation in this sense. It is political, it is parliamentary. It need not necessarily be party political. Those who are being regulated - especially those who are, as I say, democratically elected to be the people's representatives and therefore do have, for good or ill, a particular status that must be respected, and they should respect it themselves - and if people are going to come along and say, "Do you need to do this? Do you need to have a surgery every week? Why are you answering all these letters? Why did you go to this meeting?" you know, telling people how to do their job of representing the public. I have argued before your Committee in 2002 that there is a need for forms of continuing accountability rather than just the periodic blunderbuss of ballot box accountability. FOI has certainly done that in one respect, but maybe not very helpfully in this sort of fallout. So I think this is where you need bodies that are doing different things - one body that is going to look at whether people were being paid to speak in Parliament or to ask questions and at the other side, "Did they make proper use of their Communications Allowance? Are they employing too many staff?" I think these are two different things and need to be unpicked.

302. LLOYD CLARKE: Well, hopefully I am going to ask you a question now that you will not regard as being a blunderbuss question about accountability. Are you aware of any research that has been done, particularly in respect of devolved administrations, and whether the workload is less now for MPs when, as it were, some of that constitutional work arguably could be put to the devolved administration? Are you aware of any work that has been done in the first instance?

303. OONAGH GAY: Yes, I am very aware, because I helped carry out such research.

304. LLOYD CLARKE: Oh, right. So it not a blunderbuss then; you say it is a rifle bullet?

305. OONAGH GAY: Yes. The Constitution Unit actually carried out some work published by Dr Jonathan Bradbury and Dr Meg Russell, which looked exactly at this point: what happened to the constituency role of members in Scotland and Wales following the devolution? They found quite a mixed picture. There seemed to be an initial reduction in work, but that was not necessarily sustained. Constituents found it quite difficult, not surprisingly, to understand whether to go to an MSP, AM or MP, and because of the political rivalries, each electoral representative tended to accept whatever came in from the constituent that happened to come into their surgery. So a situation tended

to develop where the constituent could actually play one off against another. If they did not like the response from representative A, they could go to representative B.

306. The guidelines that the Cabinet Office - I think it was the Cabinet Office - set out did not really work, because this sort of free market for constituents developed. But I do think it is an intriguing area for your Committee to get into, but I think some Members would say, "But hang on a minute, if you are arguing that people in Scotland and Wales have less work to do, what about the difference between the urban and rural divide? Any member for an inner city urban constituency is almost bound to have a very heavy caseload, whereas that might not be true for the rolling acres of Wiltshire". It is quite difficult to say that Members in certain particular constituencies should have less money than others, and as Barry can tell you, it has been extremely contentious up in the Scottish Parliament.
307. BARRY WINETROBE: I really think this is a real potential minefield, this idea. Any suggestion of different classes of Member really has the capacity to blow your review completely off course.
308. LLOYD CLARKE: Sure. I do not think we are suggesting that that is what we are wanting to do, but it is almost we are damned if we do, we are damned if we do not. If we ask the question, it is because we do not understand the constituency role, and so that is the difficulty. It is just understanding if there is something there and what are the difficulties of exploring that?
309. OONAGH GAY: We can certainly send you details of the Jonathan Bradbury research, which is very full.
310. LLOYD CLARKE: That would be helpful.
311. OONAGH GAY: It was published about three or four years ago.
312. BARRY WINETROBE: Yes, and management consultants did this sort of work for SSRB reviews back in the 1980s, for example, and it comes up in other contexts. I remember trying to assist one inner city MP in the early 1980s boundary review, arguing that inner city MPs should survive with smaller constituencies, because they have more constituency casework. All these sorts of things go back to what I said about the job of an MP. Once you start opening that up, are you going to use crude quantitative methods, "I have asked more questions; I have got more constituents; I hold more surgeries"? I think that is a very, very dangerous path.
313. LLOYD CLARKE: Well, this is the difficulty, of sizing the job, is it not?
314. BARRY WINETROBE: Yes.
315. LLOYD CLARKE: I do not suggest that we in any way think that that is our role, to size the job, but we are clearly aware that MPs do need the

resources to do the job, whatever that is.

316. BARRY WINETROBE: Because of the MPs who say, "Well, if we have got less work in this area, we do more in other areas". I cannot remember, I think somebody tried to do some research once on whether the Scottish and Welsh MPs in particular sat on more committees, for example, or sat on more long-term committees and that type of thing. That is what they will argue, you know, there is plenty for them to do.
317. OONAGH GAY: But I think this does throw out the question, if your Committee is trying to work out an appropriate allowance system for Members, inevitably you have to ask yourself what is a Member there for? This is an issue which has come to the fore as the members' constituency role has rapidly expanded in the 25 years or so that I have been involved.
318. BARRY WINETROBE: Then you get other ethical things which your Committee is well aware of, as is the Electoral Commission. If you fund the incumbent MP to be able to do his or her job well, then there is this issue of favouring the incumbents against other candidates when you come up for election. So there are real difficulties there.
319. LLOYD CLARKE: That is helpful, thank you.
320. SIR CHRISTOPHER KELLY: This Committee is in the fortunate position - at least I think it is a fortunate position - of the leaders of all three political parties saying that subject to potentially fairly easy to meet caveats they will accept what we recommend. If you were in the same position in relation to the Bill, what would your advice be about the Bill?
321. BARRY WINETROBE: You mean other than take it away?
322. SIR CHRISTOPHER KELLY: Would that be your advice, take it away entirely?
323. BARRY WINETROBE: Oh, yes. Yes, I mean, I think from a practical point of view it is completely pre-empting what you are doing. From a "Something must be done" point of view, it is counter-productive, and there are very, very important issues here that need to be looked at properly. I do not know the mechanics of it, but I am sure there is an awful lot that can be done and is being done administratively within the House, and there may be other technical parts of it that could be done that do not require legislation. This Bill or something like it can come back at the appropriate time next year or whenever once people like yourselves have looked at this issue properly, rather than something that has been cobbled together in a matter of a few weeks. If it is a question of we are where we are and the Bill has to be made workable, there are lots of small things one can suggest, especially the role of the public. I mean, as far as I can see, there is very little there about public accountability; when IPSA are devising allowances schemes, there is nowhere for public consultation as part of the list of the great and the good that are to be

consulted, for example.

324. As far as I can see on the Bill - I have not read it in great detail, and I am assured by Oonagh it is implicit in the Bill - there does not actually seem to be an express requirement on this new body to publish the allowances of members. I mean, I may be wrong about that, but given that that is what has caused all the problems in the last couple of years, you would think that would be a very prominent part of any obligation of a body dealing with allowances. For example, perhaps there could be some sort of representative of the public on the body. I know these things are easier said than done and how do you actually do that, and we get back to the old thing about people's peers and all that. But there are ways of making these bodies more accountable to the public, and certainly some things like that could be put in - requirements for consultation for whatever the body does requirements for IPSA to be far more transparent in how it operates and a lot of that is administrative. One hopes that they would have a website and such.

325. Going back to what we were saying before on competence, the chances are, one assumes, that a large proportion of the actual staff of this new body will be the people who are currently in the House of Commons Department of Resources, so it is not as if it is going to be some huge new body. That is why the difference has to be the culture, not the people and the competencies. But I think there has got to be a far greater element in the Bill if the government wants something that shows, "We are listening to the public and we are on your side" that shows that this bill is not just yet another internal moving of the deckchairs on the Titanic. So these are some practical things that could be added if the bill survives.

326. OONAGH GAY: I am not going to comment in any detail on that, but I just refer you to the Better Regulation Unit, which does have some principles to be followed when a new regulator is established. I will just leave it at that.

327. SIR CHRISTOPHER KELLY: The implication being - which of course you will not draw - that those principles are not being followed in this case.

328. Is there anything else that either of you would like to say to us before we conclude? Any more sage advice you have to give us?

329. BARRY WINETROBE: No. I welcome your review and I just hope that you are given the time and the space to do it properly and that all your work is not pre-empted by potentially harmful and unhelpful things like this current bill.

330. OONAGH GAY: I could not possibly comment.

331. SIR CHRISTOPHER KELLY: Thank you very much, extremely helpful.

332. BARRY WINETROBE: Thank you.

333. OONAGH GAY: Thank you.

(Break)

**PROFESSOR DAWN OLIVER, EMERITUS PROFESSOR OF
CONSTITUTIONAL LAW, UNIVERSITY COLLEGE LONDON AND
PROFESSOR PATRICIA LEOPOLD, HEAD OF THE SCHOOL OF LAW,
UNIVERSITY OF READING**

334. SIR CHRISTOPHER KELLY: Our next witnesses are Professor Dawn Oliver and Professor Patricia Leopold, both constitutional lawyers. Thank you very much for coming, both of you. You have both been kind enough to let us have opening statements.³ Do you want to make them or can we take them as read?
335. PROFESSOR DAWN OLIVER: Well, I am happy for you to take mine as read.
336. PROFESSOR PATRICIA LEOPOLD: Mine too.
337. SIR CHRISTOPHER KELLY: Thank you very much. Unless there is anything you particularly wanted to pull out by way of starting us off?
338. PROFESSOR DAWN OLIVER: No, I think mine probably follows the questions we thought you might be asking, so over to you, I think.
339. SIR CHRISTOPHER KELLY: I think that is a fair assumption. Can I just begin with Professor Oliver? One of the things you say, is the lack of understanding of the importance of parliamentary privilege. There has been a lot of commentary on the dog's breakfast of the Bill, in the middle of which it is possible, unless we are careful, we will lose sight of the things that are really important for this inquiry, that is to say, some independent means of setting expenses separate from Parliament and some way of policing them, which gets away from the difficult position of the Department of Resources under the present arrangements. Can I take it that you think it is perfectly possible to do both those things without going through all the rest of the constitutional issues that are raised by the present Bill?
340. PROFESSOR DAWN OLIVER: Yes, I think IPSA or some such body that is in charge of putting together and administering an expense scheme, a statutory body, does not trespass on parliamentary privilege at all. I think the other issues like the Code of Conduct in relation to financial interests does trespass and could trespass on parliamentary privilege. I think that could be just separated off.
341. SIR CHRISTOPHER KELLY: In any sense was it necessary to put the two together?
342. PROFESSOR DAWN OLIVER: No, I do not think so. I mean, as far as I know, the problem has been to do with expenses, and I have not really

³ The statements are appended to this transcript.

noticed much of a problem to do with registration of interests or breaking the internal parliamentary rules about paid advocacy. I just think that is overkill. I do not see why it has gone in there.

343. SIR CHRISTOPHER KELLY: So your advice to the government now on the Bill would be what?
344. PROFESSOR DAWN OLIVER: To take out probably the giving of responsibility to the register for financial interests, to take that out of the bill and leave well alone, and certainly to take out of the Bill any idea that the IPSA or the Commissioner should investigate alleged breaches of the financial interest and paid advocacy and so on rules.
345. SIR CHRISTOPHER KELLY: What about the bits to do with punishment, the Bill? I think I am right in saying - I lose touch, it changes - that IPSA has the ability to impose of itself some penalties, although those are mainly about the repayment of expenses improperly claimed. Does that raise constitutional issues or is that a perfectly reasonable thing?
346. PROFESSOR DAWN OLIVER: To do with false claims for expenses and so on, I do not see a constitutional issue there. I mean, I do think you need to have access to an independent tribunal if IPSA or the Commissioner or whoever it is wants to impose a punishment, so that if the MP objects, they have got access to an independent tribunal. But that is an Article 6 and natural justice point. That is not a parliamentary privilege point.
347. SIR CHRISTOPHER KELLY: Who would that independent tribunal be?
348. PROFESSOR DAWN OLIVER: Well, I think just focusing on expenses, I think it would depend upon the terms of the expenses rules, and if the expenses rules are very, very simple, first of all there are unlikely to be disputes, but if there are, I do not see why the MP should not be able to apply to the County Court for reimbursement of what he or she considers he or she is entitled to under the expenses rules.
349. SIR CHRISTOPHER KELLY: The County Court?
350. PROFESSOR DAWN OLIVER: A debt, just a debt. I mean, if the expenses rules say you are entitled to have your rent paid and for some reason you are not having your rent paid because there is a dispute about whether it is rent or mortgage or whatever, then you just go to the County Court and claim the debt. I think a low key approach like that would be good, because we do not want the press and everybody getting worked up about MPs making false claims and the IPSA being bossy and so on. But I mean, that depends on the expenses system being a very simple one.
351. SIR CHRISTOPHER KELLY: Professor Leopold, did you want to comment?

352. PROFESSOR PATRICIA LEOPOLD: No, I think I agree with what Professor Oliver says. I think a simple system is what we want, and the problem has been expenses. I think the actual administration of the present system with the Code of Conduct has much improved over the last years in Parliament, but I think there is a need to take the actual setting of the expenses and things like that either out of Parliament, as is being done at the moment. I do not see any objection to that, but I think it can be done without doing anything about parliamentary privilege. What I am particularly concerned about is these new criminal offences and the effect of that on MPs and the application of privilege to that. I certainly think that is a very bad step and I do not see any need for these new criminal offences.
353. SIR CHRISTOPHER KELLY: Because if they have committed criminal acts, that could be dealt with under the Fraud Act?
354. PROFESSOR PATRICIA LEOPOLD: I think there are a variety, and I think the new Bill on bribery with the new offences, that would cover paid advocacy. The idea that you make up special offences just for MPs I think sends out all sorts of wrong messages to the public, never mind to MPs themselves. I think it is completely overkill and quite unnecessary.
355. SIR CHRISTOPHER KELLY: Well, that is a sort of presentational point rather than a constitutional point, as you have expressed that.
356. PROFESSOR PATRICIA LEOPOLD: Well, there is a presentational point. There is a constitutional point as well, I think, in terms of the position of MPs and they should be treated, as far as possible, like other members of the public and to impose particular offences just on them I would not be particularly happy about.
357. SIR CHRISTOPHER KELLY: Thank you. Elizabeth.
358. DR ELIZABETH VALLANCE: Thank you. You seem to be simplifying it quite a lot. We heard evidence this morning from the Constitutional Unit, which suggested that this was a kind of seamless web and that once you got into questioning MPs' right to organise their own affairs in any way whatsoever, then somehow you were on a kind of slope to perdition. But you would not go with that, although I notice that you are saying that unless the criminal offences - for example - clause of the Bill were removed, you would get into that position. Is that what you are saying?
359. PROFESSOR DAWN OLIVER: Yes, but I think when I said that, I was thinking about offences to do with breach of paid advocacy rules and that kind of thing. I mean, as far as the expenses, I really do think that the payment of salaries and the setting and administration of expenses systems are quite different from anything to do with paid advocacy, because that is really about what MPs do in the House.
360. DR ELIZABETH VALLANCE: Absolutely, but say you got into a position where, as you hinted at, this was then opposed by a Member of

Parliament who wanted to appeal against it or whatever, and you then get into the legal system, are you then in the same kind of position or the same kind of worry where there is another serious body which is being appealed to outside Parliament itself? Does that not then get you into worries about parliamentary sovereignty, about exclusive cognisance and so on?

361. PROFESSOR DAWN OLIVER: I am not sure whether you are asking me about appeals to a court or whatever on entitlements to be reimbursed expenses, or whether you are wanting me to say something about paid advocacy and that kind of thing.
362. DR ELIZABETH VALLANCE: Well, I am thinking actually about the kind of argument that I think Lord Woolf made in the House of Lords against the Bill. He was suggesting that there was something here that once you started this process of appeal, you could very quickly get into the suggestion not just that you had IPSA, that you had appeal beyond IPSA into the legal system. Perhaps there would be human rights issues, which means that you get into all that kind of level of legislation, and there might be appeals to Europe and goodness knows what, which would mean that you were removing these things very much from not just the House of Commons, but from our jurisdiction, as it were.
363. PROFESSOR DAWN OLIVER: Well, again, I just see the reimbursement of expenses as completely separate, and I do agree with what Lord Woolf was saying, if he was thinking about other things, like the general Code of Conduct. I think that certainly needs to be very carefully thought about if it is going to go ahead. I have not had time, no one has had time to think about this. It has all been sprung on us. Obviously Patricia Leopold was involved in the Privileges Committee report some years ago, and I think could say more about that, but I think we need to be very, very careful about legislating in a way that affects the exclusive cognisance of Parliament. I have to say, the idea that Parliament is sovereign, I think sovereign is not the right word. We talk about the Queen in Parliament as being sovereign in passing any laws, but all that the "sovereignty for House of Commons" comes to is its exclusive cognisance over its own affairs. That is being amended from time to time. I mean, the House used to have control over accepting people who had been elected to Parliament, and now that has been transferred to the Electoral Court, and no one is saying Parliament has lost its sovereignty. It is just the boundaries have been moved.
364. DR ELIZABETH VALLANCE: It can change. It changes without threatening sovereignty.
365. PROFESSOR DAWN OLIVER: Yes, but not without thinking very carefully.
366. DR ELIZABETH VALLANCE: But what you are saying is there is no doubt you could have a bill which set up an IPSA or an IPSA equivalent which dealt with the setting and policing, if you like, of MPs' expenses.

367. PROFESSOR DAWN OLIVER: Yes.
368. DR ELIZABETH VALLANCE: That would be separate, but it is not this Bill.
369. PROFESSOR DAWN OLIVER: Well, quite a bit of this Bill would have to be taken out.
370. DR ELIZABETH VALLANCE: Yes. Just to get it straight, section 6, one gathers, and 10 - is that right? I have tried to simplify it in my own mind, just a couple of areas which I think have either been agreed to be removed or had been voted down, in fact, and these were the ones that related it to exclusive cognisance and parliamentary sovereignty. So these being out, are you saying that there are still bits in the existing Bill which would have to be removed were your simple bill to come in?
371. PROFESSOR DAWN OLIVER: Yes, there are.
372. DR ELIZABETH VALLANCE: What would they be?
373. PROFESSOR DAWN OLIVER: Well, I have got the version of the Bill that went to the House of Lords, so the clause numbers have changed, and then I think the government decided in the House of Lords, they indicated that they would remove clause 5.8, which is about the Code of Conduct in relation to financial interests. At the moment it says, "The Code must prohibit a member from advocating or initiating [et cetera] any cause or matter". I took a note, "Query: to be withdrawn?" because I am not sure that I did not pick that up from what was said in the House of Lords on the second reading debate. I do not know where I got that from
374. DR ELIZABETH VALLANCE: That was one of the things.
375. PROFESSOR DAWN OLIVER: But anyway, whether they plan it or not, I think they should take it out. Then in the investigations, well, of course I am unhappy about the Commission investigating failures to comply with the Code of Conduct. I have no problem about investigating false claims for expenses and that kind of thing. So that would be what is currently clause 6.1(b). I think that should go, "The Commissioner can investigate failures to comply with the MP's code of conduct relating to financial interests". I cannot pick through it very easily.
376. DR ELIZABETH VALLANCE: Well, this is an update, if you like, of your evidence to the Justice Committee, is that right? You were very uncertain about it, you produced some line by line - or certainly clause by clause - analysis of the bill.
377. PROFESSOR DAWN OLIVER: Yes.

378. DR ELIZABETH VALLANCE: Now you are saying that you could do the same thing with the Bill in its current state, because it is slightly modified?
379. PROFESSOR DAWN OLIVER: Yes.
380. DR ELIZABETH VALLANCE: But you are saying there would still need to be changes made to the Bill, in your view, to allow it be the simple kind of Parliamentary Payment Bill?
381. PROFESSOR DAWN OLIVER: Yes, absolutely. That is what I am trying to say, yes.
382. DR ELIZABETH VALLANCE: Thank you. Professor Leopold, do you have anything to add to that?
383. PROFESSOR PATRICIA LEOPOLD: No, I do not think so. I think that it is very good that these things have been dropped, though it does not give me much faith in the way in which the whole thing was thought out in the first place, that having said, "This is what we need" and then say, "Okay, we can drop this bit and this bit", it does not give me much faith in how well this was thought out. But I think we want something as simple as possible that does not give rise to some of these problems with respect to parliamentary privilege. Talking about the relationship between things and the courts, of course when it comes to something like the law of defamation, MPs are encouraged to use the ordinary law of the land if they are defamed, and not to rely on the protection they have under privilege. That in itself gave rise to problems with respect to the evidence they could produce in court and resulted in that not very well thought out section of the Defamation Act.
384. DR ELIZABETH VALLANCE: But that section seems to have gone now; is that right?
385. PROFESSOR PATRICIA LEOPOLD: Of the Defamation Act? No, it is still there.
386. DR ELIZABETH VALLANCE: It is still there?
387. PROFESSOR PATRICIA LEOPOLD: It is still there, yes. It has been widely criticised but it is still there.
388. DR ELIZABETH VALLANCE: So that could take you into a situation that you are concerned about?
389. PROFESSOR PATRICIA LEOPOLD: Yes. But I think, having decided to get rid of clause 10, that removes some of these problems.
390. DR ELIZABETH VALLANCE: Is there a problem with having a statutory code of conduct as opposed to just the code of conduct that MPs have?

391. PROFESSOR PATRICIA LEOPOLD: I cannot see the advantage in making it statutory.
392. PROFESSOR DAWN OLIVER: Especially if it would expose it to judicial review.
393. DR ELIZABETH VALLANCE: Indeed.
394. PROFESSOR DAWN OLIVER: I do not think people are complaining about the content of the current code of conduct and if they are, it can be changed by the House of Commons. I do not think this is necessary at all.
395. PROFESSOR PATRICIA LEOPOLD: Of course, it is going to be much more difficult to change it if we make it statutory because at the moment it is automatically reviewed. I cannot remember for how many years now. But if you make it statutory you are not going to be able to make some of those reviews without going through a much more complicated procedure.
396. DR ELIZABETH VALLANCE: If this Bill goes through in its current form what are we going to do about it? What can we do about it? I mean should one be pushing for a sunset clause so that it can be reviewed a little way along the way or what?
397. PROFESSOR PATRICIA LEOPOLD: I suppose my view is when it comes up again with regard to what they are going to do in the House of Lords it is going to automatically be opened up. I cannot see how you can start to do something at the House of Lords without taking account of what you are doing in the House of Commons. I do not think I would be in favour of a sunset clause, looking at, if you like, the public perception and to say that, "Yes, we have done this Bill but ..."
398. DR ELIZABETH VALLANCE: It does not really mean anything.
399. PROFESSOR PATRICIA LEOPOLD: It does not really mean anything because if part of the whole idea of it is to help public confidence I do not think that would.
400. DR ELIZABETH VALLANCE: But, on the other hand, it might not help public confidence an awful lot if a half-baked Bill went through.
401. PROFESSOR PATRICIA LEOPOLD: That is true.
402. DR ELIZABETH VALLANCE: Okay. Can I take you into some of the kind of detail and take your minds on. If we are going to have an IPSA, whatever happens to the rest of Bill, if you like - whether it goes through or whether it can be hived off - you seem both to be saying that having an independent body that would take, as it were, the setting of allowances and so on away from Parliament is perfectly possible and would give a certain independence to that function in the public mind.

403. Can I ask you what you think of the idea that the IPSA itself will be setting the rules, will be setting the level of expenses - checking and paying, and then being the body that deals with infringements or claimed infringements of the rules themselves? Is it possible, in your experience, for a body like that to operate successfully or is it just too confused or potentially conflicted?
404. PROFESSOR DAWN OLIVER: I do not think that is confusing. I mean I do not think that this is ethical regulation. This is just running an expenses system. Universities do that and most institutions run arrangements for reimbursing expenses that members of their staff have incurred and that is not an ethical thing.
405. DR ELIZABETH VALLANCE: So you would see it that the IPSA that you are talking about, that has no baggage with it as it were - no constitutional baggage, would be simply a kind of outsourcing of the Fees Office?
406. PROFESSOR DAWN OLIVER: Yes, plus the actual setting of the expenses rules. Yes. I do not think there need be any confusion there and if you look at investigating costs of claims and so on, then that is very like what universities and other bodies do if they think dodgy receipts come through. I think that is no big deal. Then there would be recourse to a court - it could be a special tribunal but from my point of view a county court would do - if the MP just feels they have not got the money they are entitled to under the scheme. But it has to be a clear scheme, I think, for that.
407. DR ELIZABETH VALLANCE: Yes.
408. PROFESSOR DAWN OLIVER: If the scheme is very, very discretionary then you run into the possibility of judicial review which is much more of a big deal than just claiming or having an argument about whether this receipt is a valid receipt and rather minor arguments, I think.
409. DR ELIZABETH VALLANCE: You would agree?
410. PROFESSOR PATRICIA LEOPOLD: I would agree, yes. Yes. I think keep it as simple as possible, as little discretion as possible and that way there can be very little argument.
411. DR ELIZABETH VALLANCE: That and transparency and you are there.
412. PROFESSOR PATRICIA LEOPOLD: Yes.
413. DR ELIZABETH VALLANCE: Can I just ask; the obvious areas that are slightly worrying are, if you like, how this body would be appointed, how it would be funded and how it would be accountable. These are obviously the things that people are going to concentrate on in order to see if it is indeed producing the independent goodies, as it were. Appointment - do you have any sense in which this body could be appointed so that it was not being overtly being appointed by Parliament; the body which it is then regulating, in a

way?

414. PROFESSOR PATRICIA LEOPOLD: I think Parliament should have a role is what it comes down to because it is not enough just to try and set up something that the public has confidence in. I do not think you will ever do that, quite frankly; but that is another matter. It has got to be a body that Parliament has confidence in and is not able to run down in terms of comments on it. So the whole thing really disappears as being a problem altogether because there is a fair system that everyone knows how it works, it does work and it no longer becomes part of the news.
415. DR ELIZABETH VALLANCE: So appointment would be simply through the Speaker's Committee or something like that; an OCPA system with the Speaker's Committee at the end of it, as it were?
416. PROFESSOR PATRICIA LEOPOLD: I think the Speaker's Committee certainly should play a part and Parliament should play a part, but then provided there is some outside influence as well. I think it should not just be parliament appointing it and I think the composition which is looking to have outsiders is a very sensible composition. But I do think Parliament has got to play a role.
417. DR ELIZABETH VALLANCE: But that is the composition of IPSA itself, not the composition of those who are appointing IPSA.
418. PROFESSOR PATRICIA LEOPOLD: Yes.
419. DR ELIZABETH VALLANCE: You would still see it being entirely appropriate that that would be done on a process that then went back for acceptance, if you like, to the Speaker's Committee?
420. PROFESSOR PATRICIA LEOPOLD: I think so, yes.
421. PROFESSOR DAWN OLIVER: I think the process obviously involves following the rules of the Public Appointments Commission.
422. DR ELIZABETH VALLANCE: Yes.
423. PROFESSOR DAWN OLIVER: So, yes, an open, fair, meritocratic system.
424. DR ELIZABETH VALLANCE: The process which we have come to know in other areas?
425. PROFESSOR DAWN OLIVER: Yes.
426. DR ELIZABETH VALLANCE: As far as funding is concerned, it has been suggested to us that the funding might come straight out of the Consolidated Fund. Does that seem sensible? Are there, in your experience,

precedents for this?

427. PROFESSOR PATRICIA LEOPOLD: Yes, I think there are. I think it is the way to avoid there being an annual discussion in Parliament on the funding.
428. DR ELIZABETH VALLANCE: Or it being a departmental estimate probably.
429. PROFESSOR PATRICIA LEOPOLD: Yes. I think it takes it out of politics to a large extent.
430. PROFESSOR DAWN OLIVER: The Parliamentary Ombudsman's salary, I think, is charged on the consolidated fund.
431. PROFESSOR PATRICIA LEOPOLD: The Controlling Auditor General.
432. DR ELIZABETH VALLANCE: Yes.
433. SIR CHRISTOPHER KELLY: But the fact that it comes out of the fund, there is still some control over how much can be taken out of the fund. The fact that it comes out of the fund avoids any parliamentary vote but there is still some control, is there not?
434. DR ELIZABETH VALLANCE: It avoids the needs for a parliamentary vote.
435. PROFESSOR DAWN OLIVER: An annual vote. That is the point, to avoid opportunities every year for the House of Commons to cut back or show their anger at the judges or get fed up with the Parliamentary Ombudsman. You know, it insulates those bodies from that kind of pressure.
436. PROFESSOR PATRICIA LEOPOLD: And helps to ensure their independence. I mean that is the usual reason for charging someone directly to the Consolidated Fund.
437. DR ELIZABETH VALLANCE: How about accountability? I mean the suggestion at the moment is that this body would report to Parliament and one assumes there would be a debate in Parliament, so report again via the Speaker's Committee. Does that seem to you, again, an appropriate mechanism?
438. PROFESSOR DAWN OLIVER: Yes. I mean reporting via the Speaker's Committee, it is a mechanism for your report into the public domain and it may well be that Parliament or the House of Commons would want to debate the report each year but it may not. I mean many, many bodies report to Parliament each year and their reports just lie around somewhere in the House of Commons library and no one takes any notice.

439. DR ELIZABETH VALLANCE: I think that was my point. If you were going to have this form of reporting, it might be as well to be a bit prescriptive about a debate so that you knew it did get into the public domain.
440. PROFESSOR DAWN OLIVER: Well, I mean the press are around, are they not? If the report has got anything interesting in it, it will be picked up by the press or the political parties. It is not going to die a death if things of interest are there. But with any luck it will tick over from year to year without people feeling the need to say much about it.
441. PROFESSOR PATRICIA LEOPOLD: The Standards and Estimates Committees, one would assume, would look at a section of the report and could draw it to the attention of the House if it felt there was something particular about it. I would be very surprised if they did not actually look at it.
442. DR ELIZABETH VALLANCE: I see. Thank you very much.
443. DR BRIAN WOODS-SCAWEN: Can I just follow up this question on the Speaker's Committee. We did some work a couple of years ago on the role and remit of the Electoral Commission which also is accountable through the Speaker's Committee and we found some big deficiencies in that process in that case. For example, although there was a facility to have a debate in Parliament on the work of the Electoral Commission, no such debate had been held in the first five years of its existence. The Speaker's Committee had failed to identify the fact that, certainly in our view and this has now been accepted by Government, the role and remit was in the wrong place and needed to be repositioned. Arguably that does not give anyone a lot of confidence in the proposal that you are putting forward.
444. PROFESSOR DAWN OLIVER: For myself, I think the House of Commons is like that. These things happen. It might be a role for your Committee.
445. DR BRIAN WOODS-SCAWEN: Well, just going on, on accountability. We have done a stock take and we have mapped all the bodies in the House of Commons that have got some footprint in expenses. At the last count it is 12. I say "the last count" because every time we count it there seems to be another one. There are those who would say that creates just a complete spaghetti soup, which means that nobody is accountable because everybody is accountable. Do you have a view on the clarity of the accountability arrangements?
446. PROFESSOR PATRICIA LEOPOLD: I would certainly agree with you there is not clarity and there certainly needs to be. It is a wider problem, I think, than this. We saw this, for example, when we were dealing with the Code and financial procedures and then the rules on election expenses and discovered that there were two different conflicting provisions there. So unfortunately I think it is not uncommon and it would be jolly nice if it could get sorted but I do not think I can think of any way to sort it easily. But I think there are far too many people involved and far too many rules, which make it hard to

comply.

447. PROFESSOR DAWN OLIVER: Yes, I agree. But it is not legislated for how the House of Commons organises its committees and how the committees spend their time.

448. DR BRIAN WOODS-SCAWEN: Well, this may be a one-time opportunity to do that since everyone is standing back and waiting to hear what we have to say. So I am sure we cannot duck that issue. Can I just go back a bit? What would your analysis be to the question, "How did we get here"?

449. PROFESSOR DAWN OLIVER: Right. If we are talking about how did we get to the expenses scandal followed up by this Bill, I think a very major problem has been that governments over many years have made it very difficult for MPs to be paid an appropriate salary and, as I understand it, MPs have been told all along, "Do not let us talk about expenses", and I think that is very bad indeed. My own sense is that it is absolutely essential that the determination of MPs' salaries should be de-politicised so that MPs are not vulnerable to the government saying to them, "Now is not the right year", and so on.

450. So I think some kind of statutory provision needs to be made for the fixing of MPs' salaries according to fairly specific criteria like the SSRB recommendations because we got here partly because of that. Then it follows on from that that the expenses have been used to compensate MPs for what I think are inadequate salaries. I do not really know enough about how the Fees Office has operated but I think that quite a lot of MPs were bullies.

451. It has probably been very difficult for the Fees Office to resist pressure to allow rather extravagant expenses claims and that is a reason to move them out of parliament. I think MPs have just been too panicked, too shocked and really without much of a sense of corporate spirit. So MPs themselves are not able to put this right which is why I think the Government and the party leaders have got together, to try and do something.

452. PROFESSOR PATRICIA LEOPOLD: I think another factor is the way in which these new systems office cost allowances and various things have been introduced. Part of the reason they have been introduced is because the role of the MP has changed. As an MP becomes more and more looking after the constituency, so these additional sorts of expenditure occur which were probably not as great some years ago. So I think part of the problem is reflecting the way in which the MP's role has changed; to my mind far too much towards a constituency MP and not enough towards holding the governments to account.

453. I think the more you have to spend on your office and your staff and people answering your emails, you needed money to cover that. If you could find some way to go back to MPs concentrating more on what I think their core activities should be perhaps some of these expenses would not arise. I know that is just not going to be able to happen but I think that is another reason why

it has arisen, because these additional costs have generally been incurred by MPs.

454. DR BRIAN WOODS-SCAWEN: You indicated earlier that restoring public confidence is not going to be a quick fix. We have talked about if there is a kind of son or daughter of the current IPSA doing something not quite as currently proposed. We talked about the accountability to Parliament and I guess that is important because we do not want to be in a situation where members have wholly subcontracted all responsibility for this. But, equally, do you have a view on how such a body could be, in some sense, accountable to the public as at least part of the response to restoring public confidence?
455. PROFESSOR PATRICIA LEOPOLD: No, not really. I think no matter what you do the press will pick up the bits they want to pick up on. The requirement of an annual report is a notion of accountability but I certainly would not be in favour of lots of little focus groups by this body asking, as you put it, Joe Public what they thought; because I think there is a lack of understanding by some members of the public and the press as to what it is MPs do and what they should be paid to do. I think it is going to be very difficult to find a way in which the public could play a part in this.
456. DR BRIAN WOODS-SCAWEN: So to follow up, how would the body respond to what will clearly be a question all the time which is whatever proposals they come up with, how is this going to play in, to coin a phrase, the court of public opinion?
457. PROFESSOR PATRICIA LEOPOLD: I wish I knew.
458. PROFESSOR DAWN OLIVER: Well, I think if the framework is set very simply I do not think there would be much room for public concern. I mean if the rules were to be very simple - an MP is entitled to claim the rent or what would be the rent of a reasonable-sized flat in the constituency plus the council tax, plus £X for electricity - I really cannot see the press getting in a state about that. It is when it can be used for mortgage payments and that kind of thing that you have a problem. Another thing, this is not quite accountability to Joe Public, but if IPSA had an advisory board which consisted of a range of people including a couple of fairly ordinary Joe Publics then that might at least alert them to how what they are doing might be interpreted or misinterpreted. It would be a sort of public accountability.
459. DR BRIAN WOODS-SCAWEN: On the simplistic point, we have had evidence around the importance of simplicity. We have also had evidence around the fact that we have got 650 different jobs and, therefore, the need for any regime to have the flexibility to respond to 650 different sets of demands. How would you reconcile this?
460. PROFESSOR DAWN OLIVER: One way would be to have a generous salary and a simple and not too lean expenses system and then the idea is if you want to be elected an MP you know what the system is. You know that

that is the deal and you have to put up with it.

461. DR BRIAN WOODS-SCAWEN: Thank you very much.
462. LLOYD CLARKE: But arguably, following that, that is exactly what we have had. We have had a salary, generous or otherwise, we have had expenses and left them to get on with it. So what you are describing is something that some would argue is exactly what we have had in the past but we are where we are now. You are suggesting something different?
463. PROFESSOR DAWN OLIVER: I am just suggesting a very simple allowance, whether you call it allowances or expenses reimbursement scheme, which entitles MPs to set either absolutely set amounts of money - you know, £X per month or £Y per year - or the rent, the council tax and certain bills in relation to let us call it a second home; because, of course, some MPs are based in their constituencies, some in London and some where they lived before they were elected. I completely realise this is very complex but I think the more complex the system is the more open it will be to misinterpretation by the public and abuse by MPs, I am afraid, and, therefore, to judicial review.
464. LLOYD CLARKE: One question, which is quite a broad question really, in the same way that we talked about the different bodies that are involved in looking at expenses in Parliament at the minute. In the same way we talk about principles, we talk about rules. We talk about codes and codes of practice. I wonder in that context what relevance, if any, does a declaration of probity have in support of a code of practice, whether statutory or otherwise. Can I explain what I mean?
465. We have heard that MPs, when they sign their expenses, sign to say that it is wholly, exclusively and necessarily incurred in respect of their duty. In evidence we have been told two things. Firstly, we have been told by the Auditor General that that has got no relevance whatsoever because it is about what rules specifically apply to the allowance. Secondly, we have been told from HMRC that the only relevance of that is with regard to taxation; some are taxable, some are not.
466. My question is about a declaration of probity and the relevance of that, sitting with everything else that we have got in terms of principles and rules, et cetera. Does it have any relevance whatsoever?
467. PROFESSOR DAWN OLIVER: I do not think so. I mean I am not used to the idea but is the idea what when the MP, let us say, puts in a claim for reimbursement of their rent they sign something saying, "I declare that this is" --
468. LLOYD CLARKE: They sign something that this expense has been incurred wholly, exclusively and necessarily for them to carry out their duties as an MP. Of course, that is certainly what has angered the public in respect of some of the claims that we have seen.

469. PROFESSOR DAWN OLIVER: But, I mean, if the expenses scheme was so tight that it did not leave scope for MPs to claim inappropriate expenditure then the problem goes away.
470. LLOYD CLARKE: So, therefore, you are advocating that there has got to be tight rules and it has got to be rules-based, rather than perhaps principles-based?
471. PROFESSOR DAWN OLIVER: Yes. I mean the rules obviously would be formulated against the background of the fact that IPSA have some idea of what the principles are but there should be strict rules.
472. PROFESSOR PATRICIA LEOPOLD: I can only claim expenses if they are in accordance with those terms. Somebody can look at my expenses and challenge them and say, "Actually I do not think this is in accordance, we have rules on this", and can suggest that I remove that particular claim. So I think part of it should be in the policing of it. Somebody having declared that in good faith or not but often I suppose in good faith, but if somebody is willing to police it and challenge it and I think that is what has probably not happened, for all sorts of reasons as to why it has not happened.
473. LLOYD CLARKE: And it is that area that has been missed, it would seem.
474. PROFESSOR PATRICIA LEOPOLD: I would say it has been the unwillingness to go back and say, "Come on, explain to me how this fits in"; as opposed to it being more or less on the nod.
475. LLOYD CLARKE: Okay, thank you very much. Thank you.
476. SIR CHRISTOPHER KELLY: Just one final question. The arrangements for setting an MP's pay now rest on a resolution of the House of Commons that says in future they will accept the recommendations of the SSRB. We have had one round in which that has been the case. But it is only a resolution and, therefore, a resolution can be overturned by another resolution. It would have been possible, presumably, to have done the same with expenses; to have the SSRB continue to make recommendations on expenses and for a resolution of the House to have been passed saying that in future they will accept those recommendations without question.
477. But it has been decided to do it through the new regulatory body, presumably because that it gives it the backing of primary legislation rather than simply a resolution. Does that cause problems in your mind, the fact that expenses and pay have been dealt with separately, and can you think of any better way of binding the house to accept the recommendations of an external body, whether the SSRB or not, rather than setting its own expenses regime?
478. PROFESSOR DAWN OLIVER: I cannot really, no. Can you?

479. PROFESSOR PATRICIA LEOPOLD: No, I do not think I can.
480. SIR CHRISTOPHER KELLY: That was the answer I was expecting. Does it seem problematic in your mind that pay should be now dealt with separately from expenses as far as the acceptance of external recommendations is concerned?
481. PROFESSOR DAWN OLIVER: I think I would prefer it to be the hands of IPSA under this Bill. I mean MPs are now - and they always will be as long as it is a matter where the Government controls, as it normally does, votes in the House of Commons - very, very vulnerable to the Government vetoing or anyway discouraging them from voting themselves increased salaries and I just think that is wrong. As I said, I think it should be de-politicised and an independent body should settle it.
482. DR ELIZABETH VALLANCE: Can I just ask one thing? It is not a question. It is just that you both gave very good and useful, from our point of view, written evidence to the Justice Committee. If you did look, after 21 July when this Bill is going through, again to see where you stood and updated your note, it would be terribly useful for us to have it. If you would be prepared for us to see it that would be brilliant.
483. PROFESSOR DAWN OLIVER: Yes, of course.
484. DR ELIZABETH VALLANCE: Thank you.
485. SIR CHRISTOPHER KELLY: Thank you very much. Is there anything else either of you would like to say to us before we finish?
486. PROFESSOR DAWN OLIVER: No.
487. SIR CHRISTOPHER KELLY: Thank you very much. It has been most helpful.
488. PROFESSOR PATRICIA LEOPOLD: Thank you.
489. DR ELIZABETH VALLANCE: Thank you.

(Break)

RT HON DON TOUHIG MP, CHAIRMAN OF THE COMMITTEE ON MEMBERS' ALLOWANCES AND RT HON MICHAEL JACK MP, MEMBER OF THE COMMITTEE ON MEMBERS' ALLOWANCES

490. SIR CHRISTOPHER KELLY: Our next witnesses are the Right Honourable Don Touhig MP, Chairman of the Committee on Members' Allowances, and the Right Honourable Michael Jack MP, who is a member of the Committee on Members' Allowances. You are most welcome and thank you to both of you for the detailed piece of evidence that you have put in, which we have read with great interest. Just so I understand it, could you begin by

saying what you think the continued function of your committee will be under the new regime, if indeed there is to be one?

491. DON TOUHIG MP: Would you permit me, Sir Christopher, just a few words before I say that?

492. SIR CHRISTOPHER KELLY: Of course. I am sorry, I should have asked you.

493. DON TOUHIG: We had intended there should be three of us this afternoon. Our Liberal Democrat colleague Alistair Carmichael represents Orkney and Shetland. As you can imagine it is quite a difficulty sometimes to get down here. He is not able to be with us. But I am pleased that Michael is here. You mentioned Michael Jack. Michael sat on the advisory panel which existed before my committee existed. We are also supported by Terry Bird who is the Director of Operations who might need to give us some technical information from time to time if that is acceptable.

494. I apologise for our paper being rather long but we felt we should start from the basis of what you need and answer the question if we can; or at least pose a question for you, what do you need to be an MP? We have no agenda to promote. We are a committee of eight. There are probably eight different opinions on how we resolve these matters. We are here to answer your questions, and to offer any advice or assistance you need. I think collectively you are Solomon and your judgement will be looked at with interest and great expectation, but we wish you well in reaching that judgement.

495. Sir Christopher, your first question, "What is the role of your committee?" Well, our committee, of course, was set up by resolution of the House. It will exist while the House says it should exist. Standing Order 152G says that our function is to advise the House of Commons, Members Estimates Committee on the discharge of its functions and to advise the Speaker, the MEC and Leader of the House on the potential development of the arrangements made by or under any resolution in force from time to time regarding Members' allowances, and to approve practice notes.

496. This is our principles-based Green Book and we recognise from time to time that we will need practice notes. If there is a misunderstanding or there is a dispute or it is not clear whether a claim is allowable or not, we need to issue a practice note. So we will continue in that role until the House decides otherwise. It is possible, of course, as you know, with the new legislation - I think it is now in the House of Lords - that another body might be doing this. It is a matter of wait and see, I am afraid.

497. SIR CHRISTOPHER KELLY: You refer to the principles-based Green Book and indeed you have said in your submission that a principles-based system is what we want and I understand the reasons why you say that. But then a number of people would say that the principles even in the previous version of the Green Book were actually quite clear and yet things still went

wrong. How do you explain that?

498. DON TOUHIG: I think that if you look at the new Green Book - and I pay tribute to the committee that existed before I served on it and for the work it did - there are three key questions, I think, a member should ask on page 9 of the Green Book which did not exist before. The first one is, "Does the claim match the purpose of the allowance in question as set out in the Green Book?"; "Could the claim in any way damage the reputation of Parliament or its members?"; and, "How comfortable do I feel with the knowledge that my claim will be available to the public under freedom of information legislation?" I think possibly if we had had those sort of principles earlier that we might not have had some of the problems that we now face.

499. SIR CHRISTOPHER KELLY: I understand why that version is better than the previous version but all those three things you have just read out are things which you might have expected Members of Parliament to take for granted under the old regime and should not have needed being spelled out. Certainly the haste with which some of your colleagues are now appearing to be ashamed of some of the things they did under the old regime might add support to that.

500. DON TOUHIG: It is possible that that is the case but we feel that this is a better way of doing it. Obviously I heard the last bit of evidence that was just given to you and Mr Clarke was asking about rules and so on and so forth. Well, we have been in existence since February. We have issued practice notes - rules in effect - on subsistence, staff working wholly or partly for all-party groups, websites funded under the Communications Allowance, newsletters and other publications, authorisation of extended and European travel. So we have actually found it necessary to tweak what exists now and that, we think, is a progressive sort of thing that will happen while this Green Book exists.

501. SIR CHRISTOPHER KELLY: Forgive me, that is still not quite answering my question. What I am interested in knowing is, there clearly was a culture beforehand which was not a culture which created in all respects the right results. Going forward we are having a new set of rules, a clearer Green Book, greater transparency and so on, but there will still be cultural issues. We need to understand what the reasons for the old culture were if we are to be confident that the new culture will abide by the spirit of those principles as well as the letter of the practice notes.

502. MICHAEL JACK MP: I think it is quite important to reflect on the fact as to why an element of principle that has woven its way through all the editions of the Green Book that I have had the chance of looking at whilst I have been on the old Speakers Advisory Panel on Members' Allowances as well as the new Committee. I think it reflects the fact that you have 646 Members of Parliament, all of whom do their job in a very different way. When you have fundamentally something that is based on principles it gives the degree of flexibility that reflects the way that members do their jobs. To make, if you like, the black and white distinction between principles and rules is to ignore

the fact that within the various editions of the Green Book there have been some specific requirements which have become tighter e.g. in terms of the basis of declaring what the expenses were. We have gone from a situation where effectively you could put in numbers, but without receipts, to a much tighter regime which is the one that we presently have. I think it would be wrong to classify what we are doing as either principles or rules. It is really a bit of both. What has been happening over time is that we have been tightening up on the rules bit, but whilst maintaining the principles bit, reflecting the differences in the way that MPs do their jobs.

503. SIR CHRISTOPHER KELLY: I am still not sure that I quite got to the bottom of my question which is can we be confident that going forward the culture in the House of Commons will be so different from what it has been in the past that we can be sure that those principles will be --

504. MICHAEL JACK: Could you just help us? When you talk about "the culture", what do you mean by "the culture"?

505. SIR CHRISTOPHER KELLY: I mean the culture which made it possible for people to engage in flipping for personal financial advantage rather than in order to support their doing their job for their constituents; a culture in which the House resisted the notion that freedom of information should apply to itself; a culture which for many of your constituents creates the impression that somehow MPs should not be subjected to the same kind of constraints that apply to them in their ordinary lives; a culture in which Mr Touhig himself put down an amendment against a full scale external audit of what happens in the House of Commons. That is what I mean by "the culture".

506. DON TOUHIG: Are you clear about that, Sir Christopher?

507. SIR CHRISTOPHER KELLY: Am I clear about it?

508. DON TOUHIG: The amendment, yes, I did move. If you look at the MEC report which we debated last July and the amendment I tabled, the report debated in July would have had no effect upon what has happened over the last four years because the public interest and the newspaper interest covered a period which ended in April of last year. The audit that was proposed was not into the ACA.

509. If you look at the book that was produced by the MEC the audit was to look at was Members' office costs. What I was opposed to was spending large amounts of tax-payers' money engaging firms of city accountants, perhaps the same city accountants who told us our banking system was fine and all well run, going around the country at high cost to the tax-payer looking at the cost of how we run our offices. That would have shown nothing up about the problems and the failures over the additional costs allowance. More than that, a number of people were under the impression that by using external auditors the report was to be made public. If I can refer you to page 23 of the report, the reports were never to be made public. The reports were

in fact to be passed to a committee of the House.

510. So I do defend what I did last year because I was opposed to this secretive approach. I argued, if you look at the debate (and I have a copy of the debate here if you wish to see it) for the National Audit Office to be involved because I have served on the Public Accounts Committee as you know and I strongly believe that any effective audit has to be made public. It has to be open and transparent. That was not the proposal of the MEC last year.
511. So if I can correct the impression that you might have, and I do understand, that in some way I was trying to restrict information being made public. The report was never to be made public.
512. SIR CHRISTOPHER KELLY: I am grateful for that clarification. My answer to Mr Jack's question is still those are the aspects of the culture that I was talking about and plenty of your colleagues did vote against the relatively modest proposals that were put forward by the Members Estimate Committee at that time.
513. MICHAEL JACK: Let us pick up that point. You have been kind enough to give us a very detailed expose of your perception of culture. I think that perhaps people did not realise when the process first began of our expenditure in blocks of money. For example, for a number of years my local newspaper, when the information has come out, would ring me up and say, "Mr Jack, what do you think about your expenses?" You are invited to comment and those have shown how much we have spent on accommodation, offices, staff and this kind of thing.
514. I do not think people realised that what was coming next was a much more detailed, transparent expose. The transition from the old to the new has been, particularly for some, a very painful experience.
515. If there is one thing that Members of Parliament clearly value above all else is the reputation that they have in their own constituencies. Therefore, if there is now (and I personally agree with transparency) the degree of transparency that is presently available, as we have seen with the publication of the 2004-2008 expenses, then people will understand in a way that hitherto they have not realised, that that transparency exposes them to a degree of accountability which they had not had before.
516. I think if you are saying, "Is there going to be a culture shift in whatever comes next?" the answer is yes, because of the pain and suffering that people have felt under the transition arrangements that have exposed what they have exposed.
517. DON TOUHIG: And because you as an independent body will have come forward with recommendations separate from us taking the decisions ourselves. I think that should be welcomed and if the Government gets its way with this legislation the whole operation of the allowances will be handled

by people with nothing to do with the House of Commons which I think is a good thing.

518. SIR CHRISTOPHER KELLY: You say in paragraph 5.2 of your submission that what I paraphrase as a “small business model” of managing the current allowances system has served Parliament and the tax-payer well. What is the evidence for that?
519. DON TOUHIG: We are stressing the independence of members. Forgive me if that is not clear in our submission. We are saying it is the independence we think that has served Parliament well and operating in the model. It is a bit of both in one sense, but it is not just saying it is a small business model. It is the independence that we have argued that members have, which has been sustained by the system that we have to some degree, and is to be valued. Forgive us if that is not entirely clear.
520. SIR CHRISTOPHER KELLY: Thank you, that makes it clear. Can I turn to the additional costs allowance under its new name? To what extent do you think that the system of reimbursement of expenses should reflect different MPs, different family circumstances?
521. DON TOUHIG: I think it has to reflect across the board really. We have given you a number of references in our paper - the SSRB reports and the MEC reports - which have all said there are 600-odd different ways of doing things. I am not sure we can produce a system which reflects Don Touhig’s personal circumstances compared with Michael Jack’s or anybody else. Is that what you are getting at?
522. SIR CHRISTOPHER KELLY: No, I am saying that one of the things that is sometimes said about providing support for the needs for MPs to have accommodation in two places is it would be sufficient to allow for one-bedroomed flat within so many minutes commuting distance of the House of Parliament. It might not reflect the needs of MPs with young children. I wondered to what extent you thought that is something which this Committee should be concerned about.
523. MICHAEL JACK: I think if it were the case that Members of Parliament operated simply on leaving their family home in their constituency and finding somewhere to have accommodation in London full stop, you might rephrase the question and say could you do with a hotel bedroom three or four nights a week?
524. I think if you look at what Members are doing, particularly some who have young families who do move them about particularly when they are very small, then you have to say do you think that not being able to do that is a sacrifice that comes with the job or should you be able to reflect that situation in giving people a little more flexibility as to the model of accommodation that they should have?

525. I can just reflect on the fact that when my children were quite young they used to, from time to time, come down to London, but not very frequently. I am aware of some Members who literally pick up their family week in, week out and bring them to London. I think we have become more conscious of family relationships over the 23 years I have been a Member of Parliament. I could not personally argue today for the same situation because my children have grown up; they have fled the nest. In terms of family life, that bit in terms of bringing your children with you, you could not argue that.
526. I think it comes down to a question of whether you say members should have a sum of money to fund some form of accommodation or you get into the value judgment area of saying this is what I think the accommodation should be and then defining it according to what you think the needs are. That is a matter for each individual to determine what they think those needs are.
527. All I can say is that I think you do need somewhere where occasionally you can relax. We do not sit very often through the night, but sometimes you might need more than a hotel room to go back to if that were the case. I think there are certain pressures on being a Member of Parliament that to have what I might call the “above rock-bottom minimum” just makes for a more pleasant environment when you are shifting between your family home and a place to live in London.
528. SIR CHRISTOPHER KELLY: As far as I recall very few people have suggested that simply a hotel room is what should be provided. Despite what you say in your submission I am not aware either of anyone seriously challenging the fact that you need to live and work in two different places.
529. The question was really directed at the dilemma of how you provide a system of expenses which on the one hand does allow for the particular needs of people with large families and on the other hand does not give those who do not have large families the opportunity to exploit it up to the maximum by having a particularly large mortgage.
530. DON TOUHIG: I think that is a fair point. If our colleague, Alistair Carmichael, had been here he would have told you he gets down here by car, boat, and plane. He has a young family and I think he would put quite an argument that says, “I do need a base here from time-to-time where my family can spend some time with me”.
531. I came into the House in my late forties. My children were growing up. I have not had that kind of need so in that sense it is different. It may be that any future scheme should take account of the fact that families move on age-wise and so on and so forth.
532. MICHAEL JACK: We do have one or two people who are single parents and they have a very special set of requirements. There are not many of them, but again if you are looking to have a Parliament from diverse sources in society then you have to take into account, in whatever model you choose to provide that accommodation, to reflect the fact there may be many

different sets of circumstances for which you have to cater.

533. SIR CHRISTOPHER KELLY: The final question from me which goes down to a much less significant level is that MPs are able to claim £25 a night in subsistence. I understand under the guidelines you have issued even where an MP spends less than £25 on food they can still claim up to £25. Why should it be possible to claim anything at all under this £25 thing?
534. DON TOUHIG: I think the report you referred to, which you said I moved an amendment to last year, was proposing £30 and that was rejected then.
535. I think it reflects a view that across the board in many organisations, public and private, there is a form of subsistence to meet basic needs that people have when they are working away from home. This is a relatively new innovation that has been introduced. It came in on 1 April when we brought in the new Green Book and it is there to try and help and be of assistance to colleagues.
536. I think if you look in the private sector too you will find that lots of organisations do have a similar facility. For 20 years I was a councillor before coming into the House and there was a scheme there with my local authority in which I could claim subsistence if I was away from home for X number of hours towards any food costs or other things.
537. Clearly this will be a matter that you might want to reflect on and come forward with some proposals.
538. SIR CHRISTOPHER KELLY: The argument you have just made is the one that is usually made. I am not aware of many organisations where they provide for the cost of accommodation and also for subsistence on top of that.
539. MICHAEL JACK: Could I just add one thing? There is an assumption in the question that the amount would be claimed for willy-nilly. You do not have to claim for it if you do not want to. In other words, it is there to be claimed if you feel you must, but not everybody does. I think this comes back to your point about culture because in a new, more transparent world where you have these amounts of money, people are going to make comparisons. They are going to say, "Why did that MP claim £50 last month and you claimed £400?" That is going to have a chastening effect.
540. It is perhaps just worth reflecting that it also touches on the point that so far the questioning has been about all the details connected with the current way in which members receive allowances towards their additional, second home costs. In the House of Lords they have a per diem of £174 which if you multiply comes to a potential of nearly £2,800 a month that they could claim in a full sitting month.
541. Again, it is a matter of judgment as to whether you want a completely opaque system that pays a sum of money per day or you have a transparent

system where people can see exactly what you have. I think where the pressure will be, particularly with Members of Parliament, is on minimising those claims in the future simply because they know that they are going to be subject not only to personal inquisition, but also the effect of comparison.

542. DON TOUHIG: If it helps your Committee in your consultation document I think you had the impression that the £25 was in addition to the PAAE; it is not, it is part of it.
543. SIR CHRISTOPHER KELLY: If we gave that impression it was unintentional. I am quite clear on the position.
544. DAME DENISE PLATT: Can I come back to the comment you made about practice notes which you had produced as a Committee and in particular the practice note advising MPs about staff working for All Party groups?
545. I would be interested to know why you needed to clarify the issue. What was the matter of concern that meant that you had to clarify it?
546. DON TOUHIG: I think the concern was that very often Members of Parliament have staff here in London, and maybe are officers of All Party groups, and we wanted to make it clear to Members that they were not allowed to use funds provided by Parliament to employ staff to do work for them as MPs and for those staff to work for All Party groups.
547. I am not sure to what extent the practice existed, but it was a matter that was brought to our attention by the Fees Office and we felt it was right to issue a practice note making it quite clear this is not acceptable and is not permitted.
548. DAME DENISE PLATT: So this is clarity of what the parliamentary funding did pay for?
549. DON TOUHIG: Yes.
550. DAME DENISE PLATT: We have had evidence given to us that on some occasions, not necessarily in relation to All Party groups, that staff funded by parliamentary allowances does drift in their activity to party political work. Do you or your group have any views about how that might be prevented?
551. DON TOUHIG: It is quite clear that the House does not provide funding for MPs to employ for party political purposes.
552. DAME DENISE PLATT: How might it be prevented, a few hours here, a few hours there?
553. DON TOUHIG: I think it is very difficult to police such a thing; I have to accept that. I think we have to keep reinforcing this to Members, that it is not

acceptable. It is not provided for; it is not allowed.

554. If a Member employs staff and if the staff in their own time do party political work that is another matter, but not whilst they are on duty, so to speak. It is 9.00am to 5.00pm then, working and paid for by Parliament. It is simply not acceptable.
555. DAME DENISE PLATT: Do you feel that staff are clear about that distinction?
556. DON TOUHIG: I am not sure of the turn-over. There is quite a large turn-over (we do not have the figures to hand) of MPs' staff every month so I cannot be absolutely certain - none of us could, I suppose - that it is clear to all staff. If it is something that exercises your Committee perhaps it is something you ought to comment on and further action ought to be taken if necessary to reinforce this in letters to Members to say, "You have to be absolutely 100 per cent clear, you may not use staff paid for by Parliament for party political purposes".
557. MICHAEL JACK: Could I just add one point about that? Quite often people write to MPs about matters which are of a party political nature and it is very difficult when you are replying to a letter. I could not write back to a constituent and say, "Dear constituent, I am afraid paragraphs 3, 4 and 5 of your letter are of a party political nature, I cannot comment on that because I am not allowed to spend money". I think over the time that you are an MP you learn how to deal with the party political bits of it by not making it overt. If a constituent writes and says, "What is your party's policy on X?" you would be a very funny MP if you did not write back and say what it was or send him a piece of paper.
558. If you are making the distinction between that type of what I call normal courtesy and being much more overt i.e. producing party political material which had the party logo on and which was being distributed for public consumption or writing press releases that went out on party political paper, then I think there is a very clear answer that says no, that should not happen from public funds.
559. What I would say is that in terms of the publications that Members produce, for example, under the communications allowance, there is a great deal of detailed monitoring that goes on to ensure that within the rules set by the House for that people do not tread over the line.
560. Where it is perhaps more difficult is if people have remote offices.
561. DAME DENISE PLATT: Indeed; 650 of them.
562. MICHAEL JACK: No, that is not the case because the remote offices I am talking about are offices located in constituencies away from the day-by-day, hour-by-hour supervision by a Member. Inevitably you fall back on the fact that you have to trust the people who are there to play by the rules and

however prescriptive they may be.

563. It is a bit like saying nobody should steal, but unfortunately there are one or two people called burglars who do go out and steal. In other words, the rules are very clear about what you should not do, but some people will break the rules and get what is coming to them.
564. I think you have to make it absolutely clear, as Don has said, but I think certainly within those areas where Parliament's money can be used, like the communications allowance, there is strict policing.
565. DAME DENISE PLATT: I wanted to further progress some issues about staffing because your submission says that current staffing arrangements worked well.
566. We have heard from a panel of people representing staff who argue otherwise. They said in evidence to us that the current system did not really reflect good employment practice, was open to favouritism, led to inequality in the treatment of staff. We know that you passed a resolution around the centralised employment of staff, but the current consultation document identifies a whole range of issues which might lead the House to have a difference of view about the resolution that it has passed.
567. How would you address the concerns that these staffing representatives have raised with us?
568. DON TOUHIG: It is hugely difficult because I have met some of the staff representatives through their trade union and the advice that I have been given, and colleagues have been given, is that the House does not employ our staff; Members employ the staff. The staff have argued that they should have the right to collective bargaining, they should have the right to negotiate and so on and so forth. They say they have legal advice which says they can have that facility with the House. I suppose it is a bit of a stand-off in that respect, again waiting for any report that your Committee might make.
569. I think that there have been some pretty bad practices in the past, the way some colleagues have treated the staff. I am able to give you the figure now. There is a 20 per cent turn-over a year in MP staff.
570. I think we have worked, particularly the Fees Office, very hard in providing detailed contracts, information that should be available given to all members of staff. We only have three people in the Fees Office doing this work. They give advice and counselling to members, if there is any problem with staff, to try and resolve any difficulties.
571. I think we have this big problem, this big hurdle, while the Commons legal people (Speaker's counsel) say, "MP, you employ the staff, we do not; you must deal one-to-one with your staff and we are not in a position to talk to any group or trade union as a result".

572. DAME DENISE PLATT: Indeed, but if individual MPs do employ individual members of staff, and the analogy that gave was small businesses, and another one we have heard is family businesses, that does lead to inconsistency, poor treatment, lack of grievance procedures, induction training, how you operate in constituencies, how you work in the House. How should MPs be supported to be good employers in those circumstances?
573. MICHAEL JACK: I think I would just make one query to your question. You have given us all the negatives, but you have not talked about any of the positives.
574. DAME DENISE PLATT: That is because your staff raised with us the negatives so I would like to hear your answer to their question about the negatives. You can take the good things as read.
575. Do you think MPs are well-equipped to be good employers in these circumstances?
576. DON TOUHIG: I think there are sources there to give them advice. There are, as I said, 600-odd different approaches to this. I will be absolutely honest (I know this will not go out of this room), but I am sure I have heard some stories over the years, as Michael has, about some poor practices that colleagues have engaged in and I deprecate that.
577. We all do it differently, but I spent 27 years in newspapers and publishing before becoming an MP. I ran a number of companies. Whereas pay and rations is a matter that is concerning you and us at the present time it is pretty important how we treat our staff and give them respect. It is far more important and I would hope that colleagues would work to the highest possible degree of proper relationships with their staff.
578. Sometimes it does fail. There must be a mechanism for a grievance to be dealt with. It may be that there has to be some way in which the staff can have some sort of appeal; I am not sure. At the moment the advice I get from the House is that the House does not employ them so therefore it is not in any legal position to deal with any grievance as such.
579. MICHAEL JACK: However, there are some practical things which I think can be done. Depending on when you came into the House, depending perhaps on your awareness of what being an employer with staff on a contract means, because in many cases for older Members this has been something of a revelation, they should have something that lays down the terms and conditions because before it was a very personal relationship. On the other hand, more modern individuals, younger Members perhaps coming in from a business background or trade union background or somewhere where they have been employed, will be more aware of modern, good employment practice.
580. In fairness, I think the House has improved matters by, for the last two or three years, making good employment practice readily available. The fact

you have a contract of employment means that particularly when you are a new Member you have to discuss with the member of staff what the terms of trade are. The House has much improved its training package available both to Members and to staff.

581. I think if there are misgivings, if there are bad practices, whilst the Member remains the employer then I think it is incumbent upon the House when new Members come in to make it absolutely clear what their responsibilities are and for Members to make it clear if they do not understand it, they too require a degree of training to become better employers than some Members have been in the past.
582. DON TOUHIG: There is, by the way, a new HR guide available. It is not yet ready to be published, but we will be publishing it shortly.
583. DAME DENISE PLATT: Will it encourage those Members who have not yet placed their contracts to place them?
584. DON TOUHIG: We have made it clear that Members are obliged under a decision of the House to place the contracts. If it is reported to our committee that there is failure then we are going to have to act.
585. We have, just as an aside, issued a practice note which says that when the House returns in October if Members who wish to go on foreign travel or extended travel, (and there has been a practice amongst some of applying for permission for the travel costs after the event,) if they do not get their application in and approved beforehand they are not going to get paid. I think we have to be tough on those kinds of approaches.
586. DAME DENISE PLATT: Still on staffing and moving on to the employment of family members. We have heard evidence around the employment of family members, that this is a very good way of supporting an MP, that a relationship of trust develops, a knowledge of constituency and a really important partnership develops where family members, particularly in this instance spouses, are employed. However, we know that other jurisdictions i.e. the European Parliament and an independent review in Wales, are all recommending that this practice should cease.
587. Linked to the small family business analogy that you made, MPs are independent office holders paid for out of public funds. Does this model really hold up in the 21st century going forward or it is not just anachronistic and should be allowed to die out?
588. DON TOUHIG: Many Members, of course, would argue that tax-payers collect some value from the amount of work that family members do over and above the normal work load. I think there is much evidence of that.
589. I think in any reflections you will have on this, I think some care needs to be exercised in the sense that some MPs (and I do not mean this in any flippant way) have married their secretaries. What do they do? Do they sack

the secretary? I know of a case of a colleague whose researcher has fallen in love with his daughter. What does he say, "You will not marry my daughter or I will sack you? I need you more as a researcher than a son-in-law". These are some of the extremes, if we get into these positions or silly ways of approaching it.

590. If you feel in your deliberations that this should be addressed then it may well be that we need firmer guidelines about recruitment, about interviews and so on, so that any appointment of a member of staff (whether it is family or not) is done in open competition in that respect. That may be a matter that you would want to reflect on.

591. Certainly, many colleagues would argue that the public get good value by employing members of MPs' families.

592. MICHAEL JACK: It also comes down to the fact that first of all, if somebody is employed on a proper contracted employment and if, for example, somebody were to audit whether in fact those contracts delivered what they said, they could go and have a look. In the case, say, that a Member employs a daughter as a secretary it is going to be blindingly self-obvious that job is not being done because there are thousands of constituents saying, "Where is my mail? My letters have not been answered". In other words, there is a very quick reflection if you are employing somebody to do a job and you are expecting output, and if those do not come somebody will comment.

593. I think what underpins your question is where we have had bogus appointments where people have been paid money out of public funds and have not done anything for it. That comes down to the question, I think, of the contracted employment and making it absolutely clear that such practices will be subject to audit if necessary.

594. If there is transparency, if people are looking, to say, "You have employed your daughter, what has she done for the last month or year?" If it can be demonstrated, fine. I suppose you could equally say that sometimes you take people on who do not deliver who are not family members. The one thing you can guarantee is that there will a great deal more understanding of what the job is about, particularly if they are either constituency assistants or secretaries; you will get more work out because I think family members put more in. I think we are all aware of the one big rotten apple in the barrel which has perhaps begged this question, but I think by and large family members do give good value for money.

595. DAME DENISE PLATT: I think what you have described is a lot of scrutiny after the event. I think one of the issues is about how the appointments come to be made on merit in the first place. In that particular instance there does not seem to be much open scrutiny of that process in the current situation.

596. DON TOUHIG: That might be something you want to reflect in your report. Indeed, if I can just add to what Michael says, I do not think that if colleagues employ members of their family that there could be any real objection to this proper audit, that they do the work they are paid for.
597. MICHAEL JACK: I think the other postscript, if I may, is if you were to recommend a change it has to be done sympathetically. In other words, if you have perfectly kosher employment practices, to simply tip them all out because somebody said, "No more family members", I think that would be very unfair on the individuals concerned.
598. SIR CHRISTOPHER KELLY: I was going to say this is not just about bogus employment although bogus employment is clearly what brought it to the fore. It has raised a question as to whether in any circumstances the use of public money to employ family members can be regarded as proper. I say that, as Denise was very careful to say at the beginning of her question, I have absolutely no doubt in my mind there are many family members providing excellent value for money.
599. I think the question we need to put to you, Mr Jack, particularly in view of what you said about the importance of transparency and the fact that going forward everything that happens will be transparent, is whether you would really think it was sustainable going forward in the new mood of transparency for people to employ family members on public money and have to justify that.
600. MICHAEL JACK: I think if you have a proper contracted employment and the job is there and if necessary have more open competition, then family members' continued employment can be justified. I know, for example, of one Secretary of State whose wife was a leading civil servant. So you can have a family member employed in the government of which you are part, seemingly without a problem.
601. SIR CHRISTOPHER KELLY: There are plenty of examples of family members being employed in the same organisation. This is about employment of family members in a direct line relationship with the person concerned, and I think what you have to do, if you want to argue for the continuation of this, is to say why the situation in Westminster is different from what is the case elsewhere in the world, and where changes are happening they are all happening in the direction of eliminating this practice after a suitable transitional period, as presumably is now happening in Wales, as is happening in Europe and so on.
602. DON TOUHIG: The recommendation in Wales of course is that you may not employ someone who is related to another Assembly Member. That just seems a bit odd to me, but I think you must work through your deliberations. I have said at the beginning, we do not have any agenda as such, we are seeking to answer your questions, give advice and comment, but in any decision you might make on this, I am sure your decision will be evidence-based as to whether there are good reasons, not just a gut feeling. I know some colleagues who have been looking at these matters. Your party,

Michael, have talked about the smell test, and perhaps we need to apply that, whether this seems right. Maybe you have no other reason for coming to a conclusion, other than that, but that is a matter for you. But I would hope that there would be some evidence base to say, "Well, this is not a good practice because others do not do it and so on".

603. SIR CHRISTOPHER KELLY: Part of the evidence is asking you whether you think you could defend this against the smell test, and I am not sure I have had an answer from Mr Jack yet.
604. MICHAEL JACK: No, I think that what we have tried to do is to give you a justification for an existing practice, but I could equally give you a perfectly good set of reasons as to perhaps why the practice should finish. But if you are saying to us, "What should happen in the future?" I think that, based on current principles, if you have a proper contract of employment and it is palpable that the person is doing a good job and that outputs are measurable, then you can justify the practice.
605. If you are saying, to be absolutely above reproach, that nobody could say that you are trying to feather the family's finances from public funds inappropriately given in pursuit of dubious employment, then the practice of employing family members should end, on that premise then I think I would agree with you.
606. SIR CHRISTOPHER KELLY: I think I am clear what --
607. DAME DENISE PLATT: I have a final question for you, gentlemen, which is another one about separation of resources, or possible leakage of resources, and this is about a significant number of your colleagues rent accommodation from their political party, and we do know that there are independent evaluations, which take place, to ensure that a fair market rent is paid. But you might assume that a market rent has an element of profit. We have had evidence that some of your colleagues think that there should be a separate parliamentary office in each constituency, which would change hands from MP to MP, regardless of the political complexion of the MP if the incumbent changed. Is this not a sort of artificial market that we are talking about? Is this not a way of funding a political party in a different way? Would a constituency office rent out an office that is rented to an MP to anybody else if it did not rent it to the MP? Is this not also a rather peculiar practice?
608. DON TOUHIG: I think it is one that has existed for a long time in different parts of the country. I have never personally had any experience of it, but I can understand perhaps there might be some attraction that if you have accommodation available in a Party building and you negotiate a proper rent, there is an independent assessment of rent, it has certain attractions. But, clearly, the impression that it does give is that you are financially helping a political party. We did consider a report earlier this year, which we have rejected, about central funding for constituency offices, and we looked in some detail at this. If we could perhaps reflect on what we said then, it may be that we could share some of our conclusions with you in a letter, because we did

think there were some difficulties, but we have also got some facts and figures of how prevalent this is, which might help you make a judgment.

609. DAME DENISE PLATT: That would be very helpful, thank you.
610. DR BRIAN WOODS-SCAWEN: We have heard a lot of evidence, including from the Comptroller and Auditor General, that any future regime has to be simple and clear and that is the way in which you stop boundaries getting crossed, abuses, so a system that is easily understood and easily communicated. In our conversation thus far this afternoon, at almost every point, there has been an underlying theme of the need to understand the environment in which Members have to operate, which is one that does not have clear boundaries. So, to give an illustration, when we talked about employment of family members, when we have talked about employment practices and members running their affairs in very different kinds of ways. We have talked about accommodation and the different needs of different kinds of members. How would you reconcile the need for simplicity, as recommended by the Comptroller and Auditor General, and the need for flexibility to accommodate 650 different models?
611. DON TOUHIG: I mentioned I served on the Public Accounts Committee and I have a great respect for all the occupiers of the office of the Comptroller and Auditor General, and the PAC. I happen to think, in my own experience, both before I came into the House, running a number of small companies, and Chair of the Finance Committee for the local government, so on and so forth, that keeping it simple is the best and most cost effective way. I think sometimes, when you build on all sorts of add-ons, the costs go through the roof. I do not wish to pre-empt any consideration of whether the House should employ our staff directly, because I see you have been given different bits of advice from people, but I think, if the House were to employ our staff directly, the cost would be astronomical, and far greater than it is now, and I would want to keep the system, any system that you propose, I hope it will be simple.
612. The government has said, and we share its objective that we would like to reduce the cost of Parliament to the taxpayer. We will not do that if we build all sorts of add-ons and complex systems.
613. MICHAEL JACK: Let me pick up on that, because you make it a very interesting juxtaposition. The headline in my local newspaper was, "Jack: £134,000 expenses", all right? As if somebody had given me a cheque for £134,000, no questions asked, fantastic, in your pocket, on your bike, great stuff. If you want simplicity, give me a cheque for £134,000 and I will have maximum flexibility because there are no rules about how I spend it and I can then use that money to deliver the services to my constituents, which I think they need. That is a very simple, very straightforward model.
614. SIR CHRISTOPHER KELLY: It is actually what the Comptroller and Auditor General recommended to us.

615. MICHAEL JACK: True, but the juxtaposition is, we are where we are, and we are now in a mood where people are saying, "But we want to know how you spend that £134,000, and so when the journalist came I was very happy to explain in considerable detail, but once you start breaking down £134,000 into its constituent elements, you are automatically bringing in a degree of complexity, and what I would say is that, the more transparent and the more rules-based, the more you have a menu of what you can spend, there is a trade-off, and the trade-off is that you are getting less flexible, taking into account that everybody does their job in a different way.
616. Let us just hold that for a second. Everybody does it differently, but there are some bits, which are absolutely common. We have all got core functions that we have to perform, and to deal with those core functions we do need resources over and above our personal parliamentary salary, and so it is a question of how much you want to account for every single penny that is spent. I think the mood at the moment, now we are reconciled to the effects of transparency, is to give more detail, but within that there is a trade-off in terms of flexibility.
617. DR BRIAN WOODS-SCAWEN: I would like to come back, Mr Touhig, to the comments you made towards the beginning around your position on audit a year ago, and to understand your position now. You explained that your objection to the proposals a year ago was that they did not go far enough in terms of the scope of audit. Is that a --
618. DON TOUHIG: The point I was making is that the audit proposed a year ago, the external auditors were only going to look at the office costs, they were not going to look at the ACA. The point I was trying to get across, and forgive me if I did not convey it very clearly, was that the problems and the concerns and the real public worry that has occurred over the publication of MPs' allowances, it has been all about ACA, and that audit, as proposed, would not have looked at that at all.
619. DR BRIAN WOODS-SCAWEN: So was your position a year ago that full scope audit should be extended to all allowances, and that your objection was that was not being done?
620. DON TOUHIG: I argued, a year ago, that we should involve the National Audit Office in a widest possible audit, in effect, and I think that is important. I have seen the work of NAO at close quarters and been hugely impressed and I felt it would make more sense and use of the taxpayers' money to use an existing publicly funded, public existing body, which has got an international reputation, to be part of the audit, and I did argue that we should get the views of the Comptroller and Auditor General, who was in post then, as to what we should cover. But the point I was making in response earlier was that the report here was only proposing that the audit should look at the office costs and not the ACA, which, (this is one of those things where hindsight is wonderful), but even then, if we had brought in that regime, it would not have been looking at the ACA, which now is more of public concern,

as we have seen over the reports of the last four years.

621. DR BRIAN WOODS-SCAWEN: Do you think, in retrospect, that a proposal, however unsatisfactory, that there should be a full-scale audit over at least part of the regime, would have been preferable to the position we ended up with, which was, at least in respect of last year and earlier, there was no effective audit at all?
622. DON TOUHIG: The House actually agreed that there would be an extensive audit. In fact I am just trying to have a look at the note. We agreed for the first time that every MP would have their claims for second home audited in every parliament. We agreed that 25 per cent - that was the proposal then - of all MPs would have their claims audited every year. There has been criticism that the audit would be carried out by an internal body, rather than external auditors - this is the point I was making at the time - but I argued that it would save taxpayers millions of pounds by not involving external auditors, but by involving the National Audit Office. All MPs were obliged to submit staff contracts of employment, and the Department of Resources were told to rigorously enforce those contracts. So a number of things we did then I think accelerated the ambition for wider and deeper audit.
623. I have no problems with wider and deeper audit. Time and again I have sat on the Public Accounts Committee and seen bodies, government departments, who have brought in external bodies to give them help and advice, costs the taxpayers millions, and we have really got no great outcome as a result. I felt, using the internal staff, supported and managed, perhaps even directed maybe, by the National Audit Office, would be the way to carry out the audit.
624. The other thing that really concerned me was that there was an impression gained, maybe in the media, I do not know, perhaps people did not really check, but the impression was this assurance audit was to be made public, because they were using external auditors. That was not the recommendation; there was no publication planned of any audit that was carried out under this scheme last year.
625. DR BRIAN WOODS-SCAWEN: Based on your experience at PAC, you would be supportive of the future regime of audits carried out by the NAO being fully published?
626. DON TOUHIG: I would be very surprised if the NAO would be party to a scheme of audit that was not made public; it has an international reputation and we have now a new Audit Committee chaired by Alan Duncan, who is the Shadow Leader of the House. He has three independent members on his Audit Committee. One of them, Sir Tom Legg, is now conducting the inquiry into the last four years of claims. I have met the three independent members, because we were helped, or the committee that existed before mine were greatly helped by two independent representatives who helped draw up this Green Book, and I am keen, because I have also discussed it with my committee, that we somehow have an independent element working with us in

our work as well; I think that is important. We have to try and demonstrate to the British people that, contrary to some impressions, we are not all in this for what we can get out of it and we do want the benefit and advice of someone from the outside, and I think the NAO, in terms of audit, are the best people. I am looking forward to the work of the members of this audit committee being quite rigorous in its audit.

627. DR BRIAN WOODS-SCAWEN: How would we have confidence, and how would everyone else have confidence in the work of the Audit Committee, which has been in existence for some period of time, and which has allowed the current situation to obtain?

628. DON TOUHIG: I have met Alan Duncan, the Chairman, and I attended a meeting of his committee, and the Finance and Services Committee, and I was hugely impressed by the determination, not only of the new chairman, but also of the three independent members, who were quite determined that this is going to be well done and properly audited, documented, and transparent. I have had several private chats with the three independent members of his committee. They came along and met my committee informally, and we found a lot of what they had to say very encouraging indeed. I think we have to embrace people from the outside, as we have welcomed the work you are doing. Apart from Parliament coming forward with this report, I think we have to recognise within the House that we do need that independent element, but the independent element I would want would be the National Audit Office and not anyone else.

629. DR BRIAN WOODS-SCAWEN: How could we be assured that, if the independent members of the audit committee had concerns, that they would not simply be squashed by the complexity of the House arrangements?

630. DON TOUHIG: I do not know whether you know Sir Tom Legg and his two colleagues, but they would not be squashed by anyone, and the two people who gave advice, or will give advice, were actually members of the advisory panel that drew up this Green Book. They actually said that they were impressed by the way that the whole operation had been carried out. They had been fully involved, their views were taken into account, they made a major contribution in drawing up this new Green Book. There are some people, I have to be honest, who would say, "We must not have all these outside people, we are Members of Parliament, no one must scrutinise us in that way". I reject that, I think that is wrong and we have got to face up to the new world where the public do expect this reassurance, and that can only be given, in my view, in terms of audit, by using the National Audit Office, and also, where appropriate, bringing in people who are not Members of Parliament to work with them on matters like this.

631. MICHAEL JACK: The other side of good audit practice is that, as your auditors identify a weakness in the system, you then react by changing the rules or managing out the risk, because audit is about risk minimisation, and I think the very fact that we are talking about a much more transparent world, against the background of a much more restricted list of things that Members

can claim for, and in the case, for example, of things like rent and mortgage interest, limits have been put back in, then you are going to have, if you like, a reduced field in which inappropriate practices could take place, and if the audit process is to be meaningful then, if there are weaknesses, part of audit is designed to remove the weakness and strengthen the system.

632. DR BRIAN WOODS-SCAWEN: As I understand it, Mr Touhig, you also, a year ago, rejected the proposal that receipts should be made public. Could you explain to me your view a year ago and your view today?
633. DON TOUHIG: No, I think the proposal before us was that there should be receipts for everything below £25. Now, my information at that time was that would have added very little to the information provided. I cannot remember, whether we were advised that receipts for £25 and over would have covered about 96 per cent or 94 per cent of all claims, so I simply argued, "Do we really want to go to the extent of having to check every 2 pence claim receipt, for a very small improvement in audit?" That was my concern about it at that time.
634. DR BRIAN WOODS-SCAWEN: You accept that there is no going back on that now?
635. DON TOUHIG: There is no going back. I think the public expect it, and we are there, and I do not have any problem with that. I worked in an industry where, when I started as a journalist in 1968 I put my expenses in for seven and six pence, old money then, and my editor wondered whether my mortgage was due, so I am very used to, all my life, presenting receipts for everything.
636. LLOYD CLARKE: Could I ask you a couple of questions about the arrangements for administering the expenses? I do so, hopefully wisely, on the basis that we will not unfortunately be taking evidence from anybody in the Fees Office, from the administrative side of it. I think we all recognise that administration of the finance function is necessary, whether that is the enforcement of an expenses regime, or signing off of them. What I am interested in is, what is the current system, is it paper-based, is it electronic? Are you aware of any changes that have been or are likely to be implemented? I am interested particularly if you thought it is necessary, in the same way to issue practice notes, whether you have issued any, or you are aware if any practice notes have been issued for the administrative function in the Fees Office?
637. DON TOUHIG: Well, it is paper based at the present time. It is the use of claim forms. I do not know whether you have copies, but perhaps it would be helpful if you were to be provided with copies so you can see how we actually structure our claims, and they are submitted to the department and paid accordingly in line with the appropriate claim.
638. LLOYD CLARKE: Do you know of any changes in hand to make that an electronic system? Because that really is much easier, and particularly

thinking of the Scottish system and how that is administered.

639. DON TOUHIG: I understand this is being looked at; an electronic system. There was a report about a year ago on this, I do not think it has been acted upon, but we are about to launch a pilot in which about 50 MPs are going to be selected, in which they can look at all the payments they have made from all their allowances online. I am taking part in that myself, and I think it makes sense.

640. LLOYD CLARKE: I suppose that you would represent yourselves as users of that system. I guess really the kindest way to ask the question, what has been good about it, the administrative function, otherwise, if we are not careful, the perception will be that it is all the Fees Office's fault, is it not? I am sure that is not the case. So the question is, what has been good about what the Fees Office has done, and what, in your view as users of the system, could be improved?

641. DON TOUHIG: If I could speak personally, I have always found the Fees Office extremely helpful. If I have had any doubts about anything I have had sound advice and I cannot say more than that. If I ever had any worries about any claim I have made I have got advice from them whether it is appropriate or not. Now, you know that, with the proposed legislation going through Parliament at the moment, this will all be handed over to this new body, and they will create a regime. They must obviously take account of any recommendations that you make.

642. MICHAEL JACK: Let me try and answer your question by looking at the way, with a new allowance, the Communications Allowance, we have evolved practice, because I think it is quite a good example of the interrelationship between our committee and the Fees Office, because I think we recognise that when the Communications Allowance came in there was an enormous area for judgment when people produced either websites or bits of paper with messages and information on. What people wrote down could be deemed to be party political, it could have other connotations, rather than providing straightforward information to constituents. As it evolved, so we got feedback from the Fees Office staff, saying, "This is what we are looking at, these are the kind of issues", and if they were not certain they came along to us and said, "Well, what do you think?" and we had a discussion, and we have tried over time to jointly refine the way in which judgments are made. But, inevitably, it is the professionals who make the judgment, not the Members.

643. So I think you will find that if you go back in time, in a more relaxed era, if you like, there was more an element of judgment to be made by the official about what was going to be allowed. A Member would put an argument to somebody as to why something should be allowed, and what has happened subsequently is that some of those results of the discussions have been drawn into question as to when people have said, "It was within the rules". If you had discussed it, and somebody had made a judgment that was okay, the tick in the box, you got the money. As a result of that I suppose one can say, coming back to the communications allowance, we have gradually tightened

up the rules, we have done more, in fact the office have done more monitoring, anything that has a budget over £1,000 needs authority. So, in other words, there is a modern new allowance, which has been subject to a process, which the original ones did not have. The original ones, bits of them came before us, but they were not the subject of an evolving form of scrutiny, and perhaps therein lies a difference: that the modern allowance is much more screwed down with very clear guidelines; the old ones were more open to interpretation, hence the fact that, with the benefit of hindsight, some of those questions you could say might today be questionable.

644. LLOYD CLARKE: Sure. I do think that is helpful, and you have mentioned certainly in maybe the last six months that you have issued practice notes on communications, I think you said European travel, staffing of all-party groups, et cetera. It would be helpful if we could see those practice notes, because I think that would be helpful.

645. Did I also detect from your facial expression, Mr Jack, when I said that we will not be hearing from the administrators in the Fees Office, did I detect some surprise in your fact that we are not hearing from them, and should we?

646. MICHAEL JACK: Personally, yes. Because I think that, if you are going to understand a process, you have to look at the whole process. I think that one of the interesting things about the public exposure aspects of the whole use of our monies has been that the focus has been very much on the Member end of the equation. But a process is a process, and I think sometimes, to help you understand why decisions were made; it would be quite useful for the decision makers to at least give an insight, a commentary. In fairness, some of the people who made the decisions are no longer there, so it would be unfair to visit the whole problem on today's generation, but at least to have some commentary on how, for example, the different editions of the Green Book have been used and interpreted will perhaps help to explain the basis of the system that we have at the moment and the reasons behind some of the decisions that have been drawn into question.

647. DON TOUHIG: Can I just add one point that might be helpful? You talked about judgments. We have said to the Fees Office staff that they should not make a judgment if there is any doubt about a claim, not because we want to demean them, but we want to protect them, because if you and I are validation officers we are looking at similar but different cases, I will reach one conclusion, you will reach another. So what we have said, "If you have any doubt about whether a claim is valid, tell us, and we will then issue a practice note if necessary in support of the Green Book", so it is then clear to everybody, whoever you are, dealing with it, that is allowed or it is not allowed.

648. LLOYD CLARKE: Thank you, that is helpful.

649. SIR CHRISTOPHER KELLY: Just for the benefit of clarity, the fact that the Fees Office are not giving evidence is not for lack of asking, it is because the Clerk of the House says he remains very willing to respond in writing to any factual questions we may have, "But we feel that giving oral evidence will

pose an unacceptable risk that a member of staff will be drawn into commenting on matters of which it is for Members of the House to take a view." I just wanted to make sure it was understood that was the --

650. DON TOUHIG: I think it is extremely difficult in one sense, and I have sympathy with what you are saying and what Michael says, but of course we can say what we want, can we not, as politicians. Civil servants, as you would know, Sir Christopher, of course have to be more circumspect in that sense, and I am always careful that, if you criticise the civil servants, they cannot defend themselves very often, and I think there is a worry about being drawn in, but my committee understand that the Fees Office have answered your questions or have been giving advice if you have asked for it. If there was any problem there then we would certainly take it up.
651. SIR CHRISTOPHER KELLY: To use that analogy, I have not noticed any reluctance on the part of MPs to question civil servants. They use a similar argument to shelter behind Ministers all the time, I am not sure that would go down terribly well with you, but never mind.
652. DR ELIZABETH VALANCE: Very, very quickly, because I am aware that my Chairman is looking at the clock. I just wanted to ask you very briefly about the Parliamentary Standards Bill that is going through. We have had a lot of evidence, one way or another, none of it, I have to say, at all supportive, either from academics or from parliamentarians. What is your own view? Would you like to buck that trend? Why is it going through so quickly?
653. DON TOUHIG: I suppose it is believed because of the crisis we have got in confidence in Parliament and the reputation of Parliament and Members of Parliament that the public is going to expect some urgent response.
654. DR ELIZABETH VALANCE: To make legislation quickly is normally a recipe for disaster.
655. DON TOUHIG: It is dangerous. I happen to think that it is right that we do have a body that will deal with these matters away from Parliament, but I have expressed concerns in other places about some of the things that perhaps are contained in the legislation, which seem to me, in answer to Dr Woods-Scawen's commentary about keeping it as simple as possible, it is cost effective and the proper way to handle these matters.
656. DR ELIZABETH VALANCE: We have heard evidence just this afternoon, from academics who have said, yes, exactly that, keep it simple. But keeping it simple meant junking about half of the Bill.
657. DON TOUHIG: It depends on what you want to put in the Bill.
658. DR ELIZABETH VALANCE: What they were suggesting was something very simple, simply a framework, which would allow the expenses to be properly policed and properly developed, but nothing beyond that. There

was nothing that took things out into worries about the courts and so on.

659. DON TOUHIG: No, I think your comment is a sensible approach, keeping it in a simple way like that, and of course your deliberations and your conclusions might well influence how this actually operates. Unfortunately you are not running on the same tracks at the moment because this is likely to be legislation before you finish your report.
660. MICHAEL JACK: I think in fairness many Members of Parliament had commented that perhaps the introduction of the Bill pre-empted the work that you were asked to undertake, but it would have been a very brave Member of Parliament, given the current situation, who would have dissented from at least the direction of travel of the Bill. The very fact that, for example, in the Commons the Government withdrew certain key clauses was perhaps a recognition that, either the Bill was drafted in enormous haste, or that, on publication, it was wanting to have everything in it, but, as always with a bill, there is always a bit of bargaining room that you get rid of various pieces, because there might have been an anticipation that in their Lordships' house there would have been further refinements of it, and it has not yet emerged in its final state.
661. I think also all of us recognise that to act in haste can sometimes mean that you repent in leisure, and I just want to pick up on that point, going back to the first question that Sir Christopher asked, because he said, "What was the future of our committee?" One of the things that is unclear to me is how Parliament will have any input to the new process, because understanding what Members of Parliament do, and therefore the resources they require to do them, does mean there has to be an interface between the rule setters and the users, and it is not clear to me how, in a proper sense, that interface is going to be conducted. It could well be that we, as a committee, who do this kind of work, might be a possible conduit of communication between the House and the new independent body.
662. DR ELIZABETH VALANCE: It seems in the Bill at the moment that role will be taken by the Speaker's Committee. That seems to be the suggestion that everything goes through to the --
663. DON TOUHIG: A committee appointed by the Speaker, but the Speaker might choose to appoint us, I do not know, we will have to wait and see.
664. DR ELIZABETH VALANCE: There we go, thank you very much.
665. SIR CHRISTOPHER KELLY: Is there anything else either of you would like to say to us before we finish?
666. DON TOUHIG: I think you have a very difficult task. I see a key objective of what you are trying to do, and it is a huge challenge, and as we say in our paper that you are going to come forward with some proposals that some people are going to find very difficult to live with, but nevertheless we

will go through the proper procedure of a body, apart from Parliament, looking at these matters and coming forward with some conclusions so that we can try and restore some public confidence in the way we operate. I think, as we have said in our paper, overwhelmingly Members of Parliament are hardworking decent people who very much regret the situation that we are in now, and we look to the work of your committee to try and give us a platform on which we can build anew and build a new confidence amongst the British people for what we do.

667. MICHAEL JACK: I think as a postscript I would add that I hope that whatever you do propose allows a reasonable amount of transition, in the sense that there might be some things that have to be fixed straight away, but there are other things where people will have made their judgments for the future based on the existing regime, and it may take time to unwind current practices to move into a new regime, and I think that is an important point to make and I concur with everything else the Chairman has said.

668. SIR CHRISTOPHER KELLY: Thank you very much. Your point about transition is well taken already.

669. DON TOUHIG: We will provide you with the notes that you asked for, but if there is anything else that occurs to you then please get in touch with us and we will give you all information we can.

FIONA MACTAGGART MP, CO-CHAIR OF THE PARLIAMENTARY LABOUR PARTY WOMEN'S COMMITTEE, NATASCHA ENGEL MP, MEMBER OF THE PARLIAMENTARY LABOUR PARTY WOMEN'S COMMITTEE, AND SALLY KEEBLE MP, MEMBER OF THE PARLIAMENTARY LABOUR PARTY WOMEN'S COMMITTEE

670. SIR CHRISTOPHER KELLY: Our next witnesses are: Fiona MacTaggart MP, co-chair of the PLP Women's Committee; Natascha Engel MP; and Sally Keeble MP, who are both committee members.

671. I am grateful to you for coming and I am grateful to you for the short letter from the committee and the rather longer evidence from Natascha Engel, thank you very much for that. Is there anything that any of you wanted to say by way of introduction?

672. FIONA MACTAGGART: Yes, if I could briefly just say a couple of things. First of all, to thank the Committee for inviting us. One of the things that struck us, in looking at the questions that you have asked us to address, is that they have not focused on this issue of Members of Parliament with caring responsibilities. Our view is that, if we are going to have an effective, just, legitimate Parliament, we need to ensure that it includes people with caring responsibilities, and because our job requires us to operate in two places, in the constituency and in Westminster, and in both places we are working, those who have families need to be able to find a resourceful way to be able to have a family life and do their job in two places, and that can be challenging, particularly when it comes to the cost of housing and the cost of

travel, and we wanted your Committee to make sure that any recommendations, which you make, you do test through a prism of, "What would the impact be on a Member of Parliament who has family responsibilities? How should we best adapt them to make sure that they are not excluded from this important job?"

673. SIR CHRISTOPHER KELLY: Thank you very much. Your letter actually sets rather a modest objective, which is, "Any new system must not create further barriers for underrepresented groups."
674. FIONA MACTAGGART: It would be very good if it got rid of the present ones, but the risk, we felt, in looking at your approach to this, was that there would be new ones. So our ambition is to get rid of existing barriers, and I am sure that Sally and Natascha will tell you things about those, as well as ideas how to improve them. But the big risk is that you would make it worse.
675. SIR CHRISTOPHER KELLY: What are you particularly worried about in that respect?
676. FIONA MACTAGGART: As I said, it is both about housing, so that someone can see their children, otherwise, in our job, it is quite possible not to, and about travel with your family, and I think that my two colleagues, both of whom have children, I have the privilege of being co-chair of the committee, but do not have children, would give you a more vivid account of the consequences.
677. SIR CHRISTOPHER KELLY: Thank you. For the avoidance of doubt, and so we have it in the record, not many jobs make allowances for the fact that people have children with them. How would you justify doing that for Members of Parliament?
678. FIONA MACTAGGART: Firstly that it is absolutely essential that we have people who have all sorts of life experience in Parliament. As I said to start with, not only on the issue of justice, but actually also on the issue of legitimacy of Parliament and effectiveness of Parliament, so that in Parliament we have a more diverse group of people. What I have seen in the 12 years I have been a Member of Parliament is I have seen mothers giving up, and giving up because they cannot properly balance their responsibilities to their constituents and to their children in a way that makes both work. Because, unlike most other jobs, it is intensely unpredictable in terms of hours, it does require you to work in two different places, not just one place at odd hours, and your family have been involved in some of these issues much more acutely than many other people, and I am quite sure that my colleagues could describe the impact of that on their lives.
679. SALLY KEEBLE: I think, I mean, it is quite right that a lot of women who have children will have a difficult time in balancing and in paying for the childcare, which is a major factor. There will be quite a lot of our constituents who are working women, who will find that a very large percentage of their salary goes to pay for childcare. However, you can also look at quite a

number of areas of work in which there is trade-off with hours that women are working, with flexible working, and if you look for example at certain levels of the civil service there will be arrangements made for children, I am thinking of the Foreign and Commonwealth Office for example. So I think there is plenty of precedence for looking at employers taking account of the need for work/life balance in their work.

680. If you look at ours, you are working hours, which would require - certainly when my children were little - you have to have two lots of childcare in London to deal with the hours that you are covering, even now, because you cannot expect people to work from 8.00am in the morning until 11.00pm at night looking after children; that is not reasonable. Then, because Fridays, if you have little children, in addition to getting them up to the constituency, you have to have separate childcare arrangements there. You could probably ask a childcare specialist here what the costs are of having two lots of childcare on shift, Monday to Thursday, and separate childcare on Friday. If women do not have a partner then there is obviously also the problems of Saturday and Sunday when you are working as well. So that is a very substantial amount of childcare that you have to pay for out of post-tax income. If you take into account also the hours, which obviously you are not looking at, which there is another committee looking at, again, I think it is likely that if you look at, for example, local government, if you look at other bits of the civil service, if you look at many sectors of private industry as well, they will take account of the fact that you need to see your child, either to take them to school, or at some stage during the day, or in the evening, preferably also at some stage during the weekend. I think it is perfectly reasonable for people who are looking to go into Parliament to expect to be able to make similar kinds of arrangements for their own children.

681. I see in your commentary you say that you think it was generous to have 30 trips up and down to the constituency. That is much more generous than it used to be, and I have to say I have not claimed travel costs for the children, partly to keep them out of any public debate about expenses, but for quite a lot of MPs with children, some will leave the children in London and go to the constituency on their own, some will leave the children in the constituency and go to London on their own. If you have a baby or a small child you actually cannot do that, and you will normally take the children around with you, and that means that they go up and down to the constituency when you do, and most MPs go up and down most weekends, and sometimes during the week, but certainly most weekends. There just needs to be thought given as to how all of that is to be managed, and whether it is legitimate to make it possible for women without partners to support them, or partners who are not in well-paid jobs to help to pay for all of this, or people perhaps who have partners who are not workers, whether it is fair to expect people to be able to pay for that out of their MP's remuneration package, or whether other adjustments have to be made to the way the job is done.

682. NATASCHA ENGEL: Just very briefly, your question about how it is different from other jobs, and I think a lot of the people I speak to in the constituency, there are lots of mothers with very young children who have

exactly the same problems as I do, and from that point of view it is very like other full-time jobs. I think the really big difference comes in the fact that we work both in London and in the constituencies, and they are different kinds of jobs, so it is a bit weirder than other work is, in that it is in two places and that you have a choice, and I knew what that choice was before I became a Member of Parliament, and before I had children, that you have to either, as Sally said, leave your children in one place and the MP does the travelling, or you take your children with you. Whether they are young or getting older, you do want to spend as much time with your family as you possibly can, and because you are working this weird sort of seven days a week thing where you are kind of slotting in little bits of hours with your family, I think that is what makes it slightly different from other jobs.

683. I think it is really important that we are not making a special pleading for women with children as MPs in Parliament, but this affects lots and lots of MPs with younger children. I think there has been a cultural shift between 20 years ago where most MPs were men and they left their families in the constituency and they came down to London, they did four days a week and then they went back, to having a lot more younger people in Parliament who have got children and who choose to keep their families with them, and so they are kind of travelling up and down with them. I think it is recognising that cultural shift I think that is important when you are devising an expenses system.

684. SIR CHRISTOPHER KELLY: Thank you. I am sure we will come on to travel in a minute, but just sticking at the moment with accommodation, which is one of the two things you particularly mentioned. How do you deal with the dilemma, which is a maximum set for the limit on the expenses that can be claimed for second accommodation? A maximum is set high enough to encompass the needs of those with young children, is also high enough for those without young children to exploit by taking on bigger mortgages, taking on bigger houses, whatever. How would you deal with that issue?

685. FIONA MACTAGGART: I think transparency is at the heart of it. I think the reason why we got into problems initially was an issue to do with the lack of transparency, so the first thing, I would say, is that one needs an absolutely transparent system.

686. SALLY KEEBLE: I think it is very difficult because different people will have different choices they make for their families, and some choose to stay in one place and not have them with them, but I suspect that is becoming much more of a minority, particularly if you have small children, you cannot park them in the constituency with somebody. I think it might be that simply better management of the system would be very important. I think the other thing is that; if people make choices that it is quite important that they are not then castigated for doing so. If, for example, you went for the kind of barracks-type proposal, then obviously if people choose not to do that, because they have families, then that would be a choice and they would then presumably fund it themselves. I think what would be important would be that choice would not be sort of caricatured as being somehow an attempt to avoid or evade; that

would be a choice that they chose to exercise and fund themselves, because they were making a particular choice for their families, and I would just say I completely agree with Natascha's point that there is a big generational issue here, and I think increasingly some of the younger people with younger families, it is not just a women's issue, I think it is a family friendly working issue.

687. FIONA MACTAGGART: One thing, which is not in your remit to deal with, is that if the hours of the House of Commons were more predictable this problem would be less and it might be a worthwhile comment for your committee to make.

688. SIR CHRISTOPHER KELLY: I certainly have not ruled it out *obiter dicta* simply because they are outside the remit of the committee.

689. FIONA MACTAGGART: I just thought I would encourage you, because it would actually assist.

690. NATASCHA ENGEL: I think with accommodation there are a lot of problems. I think what your committee is doing at the moment is kind of having to make a judgment between what is reasonable for MPs, but also what has public support; I think that is, especially at the moment, is really important, to devise a system that is simple and clear enough, and understandable enough, that it does have public support. One of the really big things is that, even when you explain to somebody what the job entails, they think it is perfectly reasonable for you to have a second place to stay, and for us, certainly when you are talking about moving your families up and down from the constituency, what we want is two places to live so that it is home in both places, and I think that seems unreasonable to some people, they think it is fine for you to have a comfortable one-bedroom flat, because really it is all about you going down to London during the week and doing your work, and then you come home to the constituency, and that is really, I think, about MPs making it clearer to their constituents about what it is that the job entails, which is working in two different places. I think, also, increasingly the debate is becoming a bit more reasonable, but I think that there was an issue, certainly at the start, that rental is far more understandable and the fact that you cannot then sell a capital asset at the end and make a profit out of it, and I think that, to the UK population, is quite difficult to understand, that mortgage interest rates go up as well as down and that it is your own money that you are putting down as a deposit on a house. But it is so complicated to explain it to people that you have to spend hours and hours and hours and I have about 75,000 constituents, I cannot individually go around all of them, so it is about kind of setting up a system that is reasonable and understandable to everybody, and personally I would say that if it meant that we had to go to some system where our second home allowance meant we could only rent somewhere in order to make people feel that we are not benefiting out of it, I would be perfectly happy to move to that, but the people who were here before us made the case about having some kind of transitional arrangements. But I think also about the difference between having somewhere to stay and having a home I think is

very important.

691. SIR CHRISTOPHER KELLY: Thank you very much.

692. DR BRIAN WOODS-SCAWEN: You have very powerfully argued for the flexibility to respond on the accommodation front to different needs. Many of your colleagues, from all political parties, have argued the contrary: that this is, in your words, a crash pad. Why do you think it is difficult to persuade them of your point of view?

693. FIONA MACTAGGART: Well, why don't I speak here, because I have a crash pad. I am a single woman; I have a nice one-bedroom flat in Slough, which I crash in at weekends, and it suits me and it is fine. I do not have anyone else whose life I am responsible for, who I have to turn up to school fetes for, apart from my constituency school fetes and so on. It is absolutely fine if you do not have those family responsibilities.

694. But for people who do, we should not, and Parliament would be a much worse place if they were unable to do that job, and I am absolutely certain of that. It is already a very hard place for people who have family responsibilities. I think it would be a real step backwards if the consequence of this Committee's deliberations were to make it a harder place for such people. I think that would be a tragedy, which I do not think you intend, I do not think the general public intend, and I think is absolutely avoidable.

695. DR BRIAN WOODS-SCAWEN: I understand the argument. What I was trying to get at is, why some people, who are closest to understanding the pressures, because they are also Members of Parliament, indeed some from your own party, they do not seem to buy that?

696. FIONA MACTAGGART: As I said, we are selfish. If I was just describing my life that would be perfectly suitable for me, and I think that Members of Parliament at the moment are very keen on showing their hair shirts and we can see why, but actually they have not thought about the consequences for others.

697. SALLY KEEBLE: We do not actually speak about it to each other that much that I think of either; that is one thing. But the other thing is that all of us would do our jobs, whatever the circumstances, because we do it because we are committed to it. There is no other way you would do it. I think that what we tend to do is sort of sort the problems out, get on with the job, and I think the reason for my coming and giving evidence is not because I am thinking about my family, because my family, they are teenagers now. But I just think that if there are other young women coming in who have children, or young men who want to have some proper time with their family, and they do not have the resources to be able to buy a second home themselves, or do whatever, or top up the package so that they can provide for their children, I want them to be able to do 101 per cent as an MP, but also do a halfway sensible job as a parent, and I think that means making sure that they can do

this.

698. Quite often when you have been around a bit you just think, "Well, I managed it, why should everybody else not be able to?" But I think you have a unique opportunity to look at these issues and to say, "How can we make sure that the public is served better, but also that we are able to attract into Parliament MPs from all walks of life, who are properly equipped to do the best possible job.

699. NATASCHA ENGEL: I think again it is a matter of choice, but unless you are able to make that choice, depending on what your personal situation is, and then certainly if the only option was that, after the Olympics then MPs were all housed in the Olympics Village, my choice would be not to stand for Parliament again, because I just would not do it. But you could argue then that is my choice, but you would get a less diverse Parliament and I think, if what we are trying to encourage is lots of different people, and also kind of normal people, to become MPs, that is not to exclude everybody else, it is just to say that we want lots and lots of different people to do it. Then if you wanted to have something different you could pay for it yourself, then, again, back to Sally's point, you would only have people who were very wealthy and you would exclude people who were a bit poorer. I also think that, if you are looking at it from a value for money perspective, which again is also very important in terms of sort of the way the public look at the expenses system, that if you are renting a large place in the constituency, depending on where that is, it can be far cheaper than renting a crash pad in London on either monthly rental or on mortgage interest, so you could kind of cut it both ways, but I think it would discourage people from standing for Parliament if there was a system --

700. DR BRIAN WOODS-SCAWEN: So, is the consequence that the accommodation provision would have to vary depending on the needs of people? Clearly there is a difference between a single person and somebody with four children, for example, in terms that you cannot put four children in one bedroom, so is there a need for a wide variation in the kind of provision, and, if so, who determines what is fair and appropriate, as opposed to people saying, "I would like a bigger house and therefore I put forward my argument"?

701. NATASCHA ENGEL: I think that's absolutely kind of key to why this is so difficult. I mean, unless you have a system that audits every single MP, so that the first time that they put in a claim for accommodation that somebody physically goes to that accommodation and sees that it is actually suitable to the circumstances of the individual MP, which that may actually be what has to be done, and then that is really difficult to do. But I do think that actually what this has highlighted is how very different everybody's circumstances actually are, and most people do, when they are first setting up, kind of the first few years of setting up are really difficult, and finding a second home and settling down and kind of all the other stuff that you have to do is very, very hard, and especially if you have a young family that you are moving around. But most people do not really move, once they have that established they do not really move, so if it were possible to devise a system like that, which was kind of

individual audit of the accommodation, then that would be the fairest thing. But then, if you are a long-serving MP, those circumstances also then change, where you have children leaving home and --

702. DR BRIAN WOODS-SCAWEN: One proposal that has been put to us is a kind of arrangement whereby some third party, maybe a commercial letting agency, or whatever, identifies property based on need, offers a choice, but that it is done by identifying a series of options by a third party, who then enters into the contract, and therefore there is a legitimate question as to whether that is the right kind of property for the needs of that Member. Does that make sense?

703. NATASCHA ENGEL: Would that be all in London or would that also be in the constituency?

704. DR BRIAN WOODS-SCAWEN: I think it would be open. We have been focusing on London because most Members not in London have said, in evidence, their preference is to have their main home in the constituency.

705. NATASCHA ENGEL: Again, there is an impact on parents of younger children because, in order to keep them with you, you have to school them in London, so that becomes your main residence, and the second home has to be in the constituency. So as long as it was flexible --

706. DR BRIAN WOODS-SCAWEN: But leaving aside the practical difficulties, that notion, which would have to be sort of unpicked in quite a degree of detail, does that notion have some traction?

707. NATASCHA ENGEL: Yes.

708. SALLY KEEBLE: I have to say, I think the hours thing is a really important one, because Natascha's constituency is further north, but mine is well within commuting range, and if the hours were just slightly different then that would be the most obvious solution, and that would get away from what has been one of the most damaging episodes for all of us, and, for me personally, that would have been my preferred solution, and I think it would also have made our job more normal, compared with other people's, instead of having this sort of hype around where we need to be and everything. Then I think the public would be more understanding of people who have to commute, whose constituencies are much further away, and where the need then for a second home is much more obvious.

709. DR BRIAN WOODS-SCAWEN: Would it be a fair summary for all of you to say that, whatever the near-term arrangements, in the medium to longer term there is a clear trade-off between accommodation provision and hours, at least for some Members?

710. SALLY KEEBLE: Yes.

711. NATASCHA ENGEL: For the ones that were close enough, definitely, yes.
712. LLOYD CLARKE: Could I just pursue the issue of travel, specifically for family members, just one stage further. We have heard from the private sector, the issue of people having to be away from home for long periods of time, and what I would say, it is probably different, or the different feature is still this issue that you require two places. I do not say, "Two homes", two places for accommodation. I am interested in how justifiable it is for the public purse to pay for family travel, and I think that I heard you, Sally Keeble, say you did not claim it. Is that because of a stigma; is it because of a concern of justifying that in the press or whatever? The two seem related, and forgive me picking up on your specific comment, but it was clear you did make a comment why you were not claiming it.
713. SALLY KEEBLE: Well, the expenses have changed over the years, and to start with I do not think we could claim hardly at all, as I recall. So we always just paid. In addition, actually, the rail travel was just a small element of the cost, because if you have small children it is getting to the station and taxis and all the rest of it. So I never claimed for it, and it also seemed to me that it then kept my children out of the whole expenses debacle, which seemed to me to be something that was preferable. But the cost, so that you know, of family travel to an individual MP would be around about £5,000 a year.
714. LLOYD CLARKE: When you say, "The cost", do you mean the allowance that is available?
715. SALLY KEEBLE: No, the cost to me personally, what I have been paying a year is around about £5,000 a year.
716. LLOYD CLARKE: But you have not availed yourself of the rail travel?
717. SALLY KEEBLE: No. I think you are right, there is a legitimate issue about whether that should be paid for out of the public purse, and I remember talking about it with a former senior minister who sort of said very clearly, "Well, I do not think that the public want to see MPs' children being privileged", and I think in a political sense that is probably a pretty accurate assessment of where public opinion is. But I just think that you might like to look, as a Committee, as to what you think about whether this support should be provided or not. I certainly think it is wrong if our children become footballs in this awful expenses row, I think that would be a disaster. But I do think that at some point there needs to be some thought given again as to how you make it possible for women, or for men, who do not have a partner who is in a position to be able to be supportive, how you make it possible for them to be MPs. How you look at the package to make sure that they can do that, and they might have to come from the north of Scotland, how it all works and how you make sure that they can function properly, because you might find that some of the people who have left their children in the constituency and commuted up and down weekly for a couple of decades might now say they have missed

a big chunk of being a parent. You might say that is not important but I think increasingly for people now they expect to have a career and to have a family.

718. FIONA MACTAGGART: You have received evidence from Helen Goodman who has calculated that she spent over £7,000 last year on upgrades to ensure that her children can travel with her on the train and on travelling for the weeks that are not covered in the present expenses allowance. So that is a pretty substantial cost to an individual to maintain their family life.
719. DAME DENISE PLATT: You have mentioned a lot about caring for children, do you have any evidence that you can share with us about those people who are caring for older relatives or a spouse maybe with a disability and what issues they face?
720. FIONA MACTAGGART: Yes, the Treasurer of the PLP Women's Committee, Julie Morgan, has caring responsibilities for an older relative and I know that one of her issues has been frequent and unpredictable journeys when, for example, paid caring has not kind of worked in quite the way that one would hope or expect. I think this often ties back into the hours issue, it is not a fundamental part of your remit but if our hours were more predictable it is certainly true the arrangements that people would have to put in place ... Julie's mother is quite a long way away in Wales but even so, the arrangement that people would have to put in place would be more predictable, more easy to arrange.
721. One of the things that Natascha has not mentioned is the fact that, for example, there is not the proper maternity leave arrangement for Members of Parliament or for ministers. Each individual negotiates arrangements with the Whips or with their department. It can be highly stressful and it has led to people being described as bad value for money. I know that has been true, too, of Members of Parliament who have been missing votes because they have been caring for sick partners or for elderly partners.
722. DAME DENISE PLATT: So the issue of maternity allowances will be replicated with carers' allowances, carers' leave and all the other entitlements that one of your constituents might have access to?
723. FIONA MACTAGGART: Yes, theoretically people do get maternity leave, people do get carers' leave, but every single example of that is individually negotiated. There is not any contractual right and there is no cover arrangement so that people feel kind of embarrassed, guilty, they come back to early, they come in because there is not a way of creating a substitute.
724. SIR CHRISTOPHER KELLY: I do not want to put words in your mouth and I realise you would say these are not choices but just so I get it clear in my mind, in terms of the order of importance of these issues, would I be right in thinking it is hours, accommodation and travel?

725. SALLY KEEBLE: Can I just say one qualification on the travel. I think I claimed £46 on my children's travel last year because I do not want people to say, "You said you did not claim anything but you did". For me, when the children were little it was childcare, accommodation and travel, probably in that order. The hours were tied up with all of that.
726. DAME DENISE PLATT: Sounds like childcare, hours and entitlements was another issue, I think, that came in as well as travel. Can I just change tack a bit and it is a question for Natascha Engel. It has been put to us that allowing the employment of family members is one way to help maintain work/life balance. I think from your submission you disagree with that. Is it a position shared by all of you about the employment of family members and work/life balance?
727. NATASCHA ENGEL: I think in the interests of kind of making Parliament be more clean I think it is absolutely essential that we do not employ family members unless they ... well, they could apply through a proper kind of open recruitment. I just think we work in such small offices and there is such a lot of room for abuse of that system. I understand all the arguments about kind of spending more time with your family but I just think it is unprofessional and I think it looks unprofessional. So I think it is important that that is something that really needs looking at.
728. I do not employ family members and I would not. I would hate to work with my husband so that again is a personal choice. But I know --
729. FIONA MACTAGGART: I do not think there is much call for a vet in Parliament.
730. DAME DENISE PLATT: Oh, I do not know.
731. SIR CHRISTOPHER KELLY: I am sure there is a joke there somewhere.
732. NATASCHA ENGEL: I do know a lot of people who do employ family members and I know them and they do a really good job. So I am not trying to say that they are not doing a good job. I just think that it looks bad and I think it is open to abuse and there have been some pretty bad abuses of it. I think in the interests of creating a system that is really transparent and is properly professional we should stop it.
733. Can I go back to a point that you made earlier about the travel issue? There is a really big problem about the fact that this job is absolutely unique and there are not any real jobs that you can compare it to in the private sector. I think that is part of the problem. If there was an off-the-peg other job that you could compare it to either in the public sector or in the private sector your job would be much, much easier. There are no core hours and there are no job descriptions, there are not even any minimum standards of what it is that we do and we are all very different. We have constituencies that are either far away or close by and all our constituents are very different. So I think that

flexibility is really important and I think that there has to be some kind of choice in the expenses system. So whilst being simple and transparent and open, I think it does have to be flexible. I just think your job is going to be very, very difficult to address absolutely every single person's unique circumstances in what is a unique job.

734. FIONA MACTAGGART: There is one alternative that you could choose, and I am not putting forward the view of the Parliamentary Labour Party Women's Committee in saying this. I am thinking of what Sally said about not wanting her children to be part of this debate, the alternative is to increase the remuneration package for individual MPs and expect them to sort these things out themselves. I think there is much merit in that and it would actually mean that people's children did not become part of the debate. But, as I say, that is not a settled view of the Parliamentary Labour Party Women's Committee.

735. SIR CHRISTOPHER KELLY: There are more people pointing that out to us in confidence than are doing so openly.

736. FIONA MACTAGGART: I am quite prepared to say it openly. I am struck by the fact that for the hours and for the skill and for the responsibility of this post, we are not well paid.

737. DR ELIZABETH VALLANCE: Can I just add to that because it does seem to me what you are saying is not as such that this is a unique job but it is a unique job in terms of the hours and so on for what you are paid. There are investment bankers who do the same kind of job, and there are even a few women. There are also corporate lawyers who stay up all night, but they are paid a great deal more than you are and therefore they probably can afford to have the kind of childcare ... they do not have to worry too much whether they take the children to New York with them or whatever.

738. So I think that is your point and, if I were to sum up what I hear you saying, your plea to us is that what we come up with is as important symbolically as it is substantively in the sense that it gives a sense of whether women and/or people who are not the norm, if you like, should be allowed to do this job or should be encouraged to do this job. Your plea is a very strong one, it seems to me, that they should be.

739. FIONA MACTAGGART: Parliament is better when they can.

740. SALLY KEEBLE: I think one thing is really important, and on the family members employment I agree with Natascha. I personally do not think it is a good idea. But I think that some of our constituents expect our lives to be similar to theirs and that we should face the same kind of problems they face, struggling with childcare which everybody has, juggling the bills of childcare, dealing with work/life balance and those things. And whilst some people say corporate lawyers would get paid much more, we are not corporate lawyers, we are MPs. I think therefore there is need for some care that our constituents, when they look at us, can see some reflection of the kind of

choices that they have to make in their lives reflected in our lives. I think it perhaps needs a bit more thought around exactly how the remuneration package works.

741. DR ELIZABETH VALLANCE: I was on your side actually. I was trying to suggest what it meant when you said that you were doing a unique job. The devil's advocate answer to that would be, "No, you are not". But you are, as I say, in terms of the job and the package.

742. SIR CHRISTOPHER KELLY: Thank you very much. Is there anything you would like to say to us by way of finishing while you still have our ear?

743. SALLY KEEBLE: I just think that you have an incredibly important job to do because since 1997 we have seen a lot more women come in. I think more women came into Parliament in 1997 than there had been in the whole history of Parliament. I think the balance having changed it has to be maintained. Also, it seems to me, an awful lot more women expect now to be able to have a career and to have families. I am sure men do as well. I think it is important that in Parliament the arrangements that are put in place win the public confidence but also make it possible, as Fiona said, to have that diverse range of people in and have them in as whole human beings who have got experience of what it is to bring up a family, and an active commitment to their families as well as being able to do a good job for their constituents.

744. I think your findings - and I am glad I am not having to make them - will play a really important part in achieving that.

745. NATASCHA ENGEL: Just one very brief point, I made it in my written submission, I think the standing of politicians, not just in the House of Commons but even kind of at local government level and even members of political parties are really, really suffering at the moment because of the way that politicians are seen in general. So I think part of the job, even the most important aspect of what you are doing, has got to be giving credibility and making it possible for politicians to argue why it is important that politics stays in the mainstream and attracts people who are of a high calibre in order to make that point even more loudly.

746. Therefore I absolutely agree that there has to be some kind of system that does not discourage people who are normal and who have got the right ideas and have got strong views from entering Parliament. Because I think that is one of the really big worries, certainly over the next couple of years, that people who might have thought about going into politics are really discouraged from doing so because it has just all been so discredited. So I hope you manage that.

747. FIONA MACTAGGART: Good luck.

748. SIR CHRISTOPHER KELLY: Thank you very much. Cleaning up expenses system may be a necessary condition of improving trust and

confidence in elected office holders but it is by no means sufficient. Thank you very much.

DR BOB CHILTON, CHAIR, STANDARDS FOR ENGLAND, PAUL HOEY, HEAD OF STRATEGIC RELATIONS, STANDARDS FOR ENGLAND, BARRY QUIRK, CHIEF EXECUTIVE, LONDON BOROUGH OF LEWISHAM AND FORMER CHAIR OF SOLACE AND JOHN RANSFORD, CHIEF EXECUTIVE OF THE LOCAL GOVERNMENT ASSOCIATION

749. SIR CHRISTOPHER KELLY: Thank you very much. You are welcome. I apologise for keeping you waiting. It would be of great advantage to the transcriber if you could identify yourselves, please.

750. PAUL HOEY: I am Paul Hoey, Head of Strategic Relations at Standards for England.

751. DR BOB CHILTON: I am Bob Chilton, I am the Chair of Standards for England.

752. BARRY QUIRK: My name is Barry Quirk, I am the Chief Executive of London Borough of Lewisham and I am representing the Society of Local Authority Chief Executives.

753. JOHN RANSFORD: I am John Ransford, Chief Executive of the Local Government Association.

754. SIR CHRISTOPHER KELLY: Thank you very much, and thank you for your evidence. Is there anything that any of you would like to say by way of introduction? I am hoping for the answer, "Only very short".

755. DR BOB CHILTON: I appreciate you have been sitting for a long day. There is a slight apparent conflict of evidence between the note we have tabled and the note we submitted. In the note we submitted we said that 50 per cent of complaints in the system were about personal and prejudicial interests. In the tabled note we say it is 25 per cent. The first figure of 50 per cent is for 2007-08 when there was a national regime. The 25 per cent is the 2008-09 figure when it is locally devolved, which raises the interesting question of why it has changed so much. We are looking into that. We think actually monitoring officers in local government are weeding out a lot of complaints that had no merit and they are not entering the system. The total number of complaints has gone down 20 per cent.

756. Broad message, local government standards is not in disarray. It has a culture and a tradition of doing things in a proprietorial way. It has got good leadership, does have problems but it deals with them.

757. SIR CHRISTOPHER KELLY: Thank you very much. I guess the reason we brought you together, and thank you for agreeing to sit on a panel which clearly requires a great deal of discipline on our part if we are to get through all the things we want to get through in the time required. I guess the

reason you are here collectively is to tell us whether you think there are important lessons to be learnt from local government by central government.

758. JOHN RANSFORD: If I could start with that, Chairman. I think there are three big lessons that can be learnt. The first is that local government allowances and expenses for elected members are independently assessed. Each council has a panel of independent people who consider the issues before them and make recommendations. So that gives an element of representative, I suppose, thought from the communities which councils serve.
759. Secondly, the information is transparent. For over 20 years now the allowances paid to members and the expenses claimed have been a matter of public record and often, from personal experience, a matter of major public debate. So there is no doubt about what people get.
760. Thirdly, that public scrutiny extends to the fact that the public can ask questions, all of this is subject to external audit and, of course, people have the right of address, as you briefly heard at the beginning, to make a complaint about the standards of members and, in extreme cases - and the one I think of most significantly in Doncaster in the mid 1990s - there can be a major inquiry if there is deep concern. Certainly lessons have been learnt from that in local government. I think we have no reason to be complacent. Things can always get better. I think public expectation increases almost at the same pace as information sources increase.
761. But those three things I do think are things worth considering in this debate.
762. SIR CHRISTOPHER KELLY: Thank you very much. I should know the answer to this question, but on your first point, the fact that each authority now has a panel to set the level and presumably nature of allowances in their authorities, is that a matter of custom and practice or is that a requirement?
763. JOHN RANSFORD: No, that is a requirement now. There must be at least three people on that panel.
764. SIR CHRISTOPHER KELLY: How long ago was this done?
765. JOHN RANSFORD: I think from memory, last five years.
766. SIR CHRISTOPHER KELLY: So this was a requirement placed on local authorities by those members of the --
767. JOHN RANSFORD: But it is based on good practice. I mean some authorities have been doing this for a very long time but now it is an expectation.
768. SIR CHRISTOPHER KELLY: And a requirement placed on local authorities by MPs who did not impose the same standard on themselves?

769. JOHN RANSFORD: That is right.
770. SIR CHRISTOPHER KELLY: Yes. Thank you. Mr Quirk, are there further lessons you think we should learn.
771. BARRY QUIRK: I think there are particularly lessons really about the fact that what we are seeing is a rule-based approach rather than a values approach. So what is absolutely crucial is that whatever rules that there are are enforced, that we adhere to them and that we have processes at the local level, which is for monitoring officers and heads of paid service, to ensure that people do not transgress the rules and that what we have is transparency but more importantly disclosure.
772. But actually, I think, that a lesson for me is about corporate responsibility for the institution of local government. Although we have many people elected that are exercising their roles full-time, most part-time, many are in an executive role, some in scrutiny and there are lots in politics of challenge, one to the other. But the Audit Commission and others have increasingly expected local government to have strong ethical governance across the entirety. So despite that we have these executive and scrutiny functions, rather akin to government and parliament, we do nonetheless manage corporately the entirety of that and therefore there is responsibility on corporate managers to ensure that there is positive promotion of good practice. Not just the controls of bad practice.
773. I think there is an obligation on corporate leaders in local government, really it has been from the comprehensive performance assessment onwards, that those that have got political leadership roles and those that have management leadership roles are actually positively promoting good ethical governance. I think that positive promotion is as important because it means that people are all time having to be reminded that what they do affects the overall reputation of the place as well as the council. Not just their own reputation as individuals.
774. I think that is important because politics is probably the only profession where people's fidelity, loyalty and trust is internalised within their party rather than externalised to the broader public. It is very often the case in councils, in fact it is encouraged that there is a check, a balance, a questioning, a critique across parties. What is important is that notwithstanding that there are people, politicians and managers, who take responsibility for the overall reputation of the public democratic institution to which they are elected. What I am suggesting is that in local government that is quite ingrained within the last few years because of a sense of corporacy and because of the constitutional personality that local government managers have in managing members' expenses.
775. SIR CHRISTOPHER KELLY: So how would you replicate that in Westminster?

776. BARRY QUIRK: I think you would have to move to a system whereby, as was suggested in our submission, the Fees Office and the parliamentary office would be part of the whole of Westminster. It would be part of Whitehall and would therefore be subject to management. I think there is either a separation of powers or one institution and I think the flexible arrangement has been found wanting in these times. I do think that in our organisations in local government if members were making expenses claims that were inappropriate the person who is managing that process is simply two arm's lengths from the chief executive. We would find out in no time and, in fact, it would be challenged and we would talk to the party leader and the individuals concerned.

777. That is why I am saying there is a responsibility on those with leadership roles, political and managerial, to make sure the reputation of the whole institution is promoted positively. From time to time there will be people who will find the wind to sail as close to it as possible, but that is only very, very small in number and it is important that the reputation of the whole is managed properly. So that would be one way forward in my view that there not be this distinctive separation and it be managed at a lower level.

778. SIR CHRISTOPHER KELLY: Thank you. Standards Board.

779. DR BOB CHILTON: Attempting to maintain standards in any regime only through an independent regulator is really hard work. What Barry has described is that local government has got a tradition, a culture, a propriety and we, as a regulator, work with the grain of that and that is reinforcing it. It is, however, important to have a backstop of a regulator because that does reinforce behaviours, sends guidelines, messages, et cetera, into local government. Interestingly we - and I have tabled some information on this - undertook a survey of public attitudes to politicians in June. That timing, you will appreciate, is quite interesting. It would appear that although all politicians have suffered some damage to their reputation, in local government that damage is far less. It is only anecdotal but we know from conversations with significant figures in local government, that they do value the capacity to lay out the sort of regime described in these submissions as a line of defence. Indeed, some who were not instinctively friendly to the Standards Board are expressing some regard to the value that it does put into local government.

780. SIR CHRISTOPHER KELLY: Thank you. Did you want to add to that as well?

781. PAUL HOEY: I just really wanted to add to that that we are doing further research with the public and it is becoming increasingly clear through that research that they do see this independent redress mechanism as very important and it is helping them distinguish between local councillors and professional politicians when it is discussed with them. Independent redress seems to be a common theme that will come through all of our conversations with the public.

782. SIR CHRISTOPHER KELLY: Thank you. Elizabeth.

783. DR ELIZABETH VALLANCE: Just to pursue that, do you think that is because, as you suggest, the idea of standards and so on is perceived as being very important here or do you think it is more to do with the fact that just in the same way as people say they do not value MPs but, "My MP is okay", and that maybe the fact that a local councillor is perceived as "local", as "my local chap" or the person who is in my ward or whatever, that might be the reason why, as you say, their reputations have not suffered so much in the present climate?
784. DR BOB CHILTON: I think familiarity can breed all sorts of responses, and there can be positive ones. I think it will be very variable depending on the personalities and the settings. The figures I gave you were national and therefore much of that will be averaged out I think.
785. PAUL HOEY: But we did ask in the research specifically about your local MP, your local councillor, councillors generally, MPs generally, all politicians. Again, the councillors were always coming out scoring much better.
786. DR ELIZABETH VALLANCE: On top, yes. That is interesting, thank you very much for that. Can I just pursue this notion of a panel with you, Mr Ransford. The panel is a parliamentary requirement, you say, now set in statute, the panel decides on the level of expenses?
787. JOHN RANSFORD: Well, local authorities are all sovereign bodies. Each local authority is separate. So whilst there is a general laid down in regulation, general rule, I suppose for councillors - to start with the simplest one - each councillor receives a basic allowance for his or her work on that council. Then there are a range of special responsibility allowances for taking particular jobs.
788. DR ELIZABETH VALLANCE: And also the amount of time?
789. JOHN RANSFORD: Yes, time and seniority. The largest of those would go to leaders of councils or elected mayors when they are in place and then there would be various allowances for different responsibilities. So the Chair of Planning, for instance, which is a quasi judicial responsibility, would usually be fairly high.
790. Now, what the independent panel does is advise the council on a range of allowances which is consistent with time, responsibility, seniority and also the characteristics of that particular area. So you would expect the allowances to be higher in London, say, where the councils are bigger, the responsibilities it could argued are particularly intense and the general rate of pound reward in the economy is higher than it would be in a shire district. So it can reflect the nature of the local area and its responsibilities.
791. DR ELIZABETH VALLANCE: Who appoints the panel?

792. JOHN RANSFORD: The council appoints the panel.
793. DR ELIZABETH VALLANCE: In an open way? How is it done? Can you give us some idea?
794. JOHN RANSFORD: That will vary, I think, from time to time.
795. BARRY QUIRK: We had to advertise for panel members and appoint them.
796. DR ELIZABETH VALLANCE: Okay, but that is in your particular area.
797. BARRY QUIRK: Yes.
798. DR ELIZABETH VALLANCE: Does this panel deal also with complaints, if there were complaints about a particular councillor or ...?
799. BARRY QUIRK: No, it depends what the complaints are. If it is complaints about behaviour and conduct then that would go to the Standards Board. We have standards committees with lay people on who will investigate. As Bob Chilton said, that process has changed in the past two years. That is just done locally. But, in the main, complaints about councillor behaviour is a Standards matter to which monitoring officers - who, in the main, are lawyers - will be advising our standard committees about how to come to judgement in relation to the complaints.
800. DR BOB CHILTON: May I just add a little point to that? I think an interesting feature of the local government standards regime is that, to a very large measure, it is public facing. Fifty-four per cent of the complaints that come into the system are from the public. In an era of citizen empowerment, democratic openness, et cetera, it is a very interesting model. Yes, it does have to deal with some of the issues amongst politicians but that sometimes overshadow the public facing role. But that is really quite a critical role in which politicians can be exonerated from false accusations, which is the most common outcome. But if there is a real imbalance of power between a politician and a citizen, there is a redress mechanism for examining the issues.
801. DR ELIZABETH VALLANCE: Can I ask you again, Dr Chilton and Mr Quirk, you have already alluded to rules as opposed to ethics based systems and so on, and these are crudely the two approaches to regulation. You either base it on the rules or you base it on principles. What I think the Standards Board refers to as trust.
802. The Standards Board has, in the submission we have, drawn attention to the need to strike this balance between the two and it is generally thought that the right balance depends on the circumstances. It depends on where you are, it may change over time and so on.

803. If you were to give advice to MPs or to Parliament in this kind of context, given the circumstances now, the current problems, on which side of the spectrum would you err towards rules based or towards a principles based system?
804. BARRY QUIRK: Myself, principles based. I think it is the principles that draw people into public life and what is important is that what people look for in whom they elect is authenticity, honesty, openness, integrity and so on. They believe they can see it in a nano second on television. It is easily corroded and it is corroded by bad conduct. I think rules are a way of enforcing when conduct falls below what is expected. I think whether it is an intrinsic drive for improved ethical practice or an extrinsic rule, if there is a choice between these things - I personally think you do need both - at the moment I would say it is much more an intrinsic drive.
805. DR ELIZABETH VALLANCE: Because it is very difficult to simply base things on rules without the ethos and the general culture being accepted --
806. BARRY QUIRK: In local government one thing we do not face, because we the benefit of propinquity and nearness and so on, we do not have second homes in the main. Therefore we do not have many of the problems that occur in central government. But, in essence, I think there are too many rules. With 600 people and lots of individual circumstances simply generates, in my view, too many work arounds.
807. DR BOB CHILTON: Could I concur with the need actually for both. Because you have to have a rule principle before you can derive its rule. Principles are much more likely to be future-proofed because they have a longevity. Events can overtake and leave it in disarray. I think the problem, though, is sometimes that principles do not always point in the same direction. One is pointing to this outcome, one is pointing to that outcome. There is a need for balancing them. Sometimes a rule gives you the answer but sometimes it does not. In some jurisdictions there is the opportunity to seek guidance from the regulatory body: Possibly non-binding guidance. You have still got to draw your own conclusion but that assists in the balancing of principles so that you come to a conclusion which you feel is defensible. Even if it is criticised, there is clearly strong mitigation that you saw the issue coming, you sought guidance on it and you acted in a balanced way.
808. DR ELIZABETH VALLANCE: Thank you. Just one other short question. The Standards Board makes quite a lot of the importance of public confidence in developing your frameworks and that this has to be key in any framework being successful, certainly long-term. Now, if you had to give advice to the new chair of the IPSA, the Independent Standards body, what would that advice be on building confidence? How have you gone about doing that?
809. DR BOB CHILTON: I have been contemplating a letter actually. Public confidence derives from a whole range of factors of which you are only one. So you can add influence to the level of public confidence and you can be

seen to be a key player. You need to be resilient. When you are regulating in a political environment on any adjudication you may make a friend, you will certainly make one non-friend, you may actually make two. So you have got to be absolutely clear in your own integrity and the way in which you have interpreted the rules. Do not expect popularity but do court respect so that your adjudications, the way you go about things, are perceived to be fair, even if debated in some quarters.

810. I think our world is different for a number of reasons that have been described and I think the chair of IPSA will have some more difficult problems than I have to deal with. But I think some of the context and the sense of environment of operating where personal reputations are so acute, provide some learning lessons there.

811. PAUL HOEY: I just wanted to add to that. I think that visibility towards the public is also quite important. This is something the Standards Board itself has may be not done as much as it could. But I think there is a lot to be done in terms of explaining actually why things work in a particular way and explaining your judgements and explaining why certain things may or may not be regarded as within the framework, without the framework. Because I think the public, once they receive an explanation as to why certain things are applicable or not, they have a much better and clearer understanding than merely sort of the trial by media that goes on at the moment in reading about particular issues and thinking that looks wrong without the full context. So I think it is important to contextualise.

812. DR ELIZABETH VALLANCE: And a certain consistency, perhaps?

813. PAUL HOEY: And a certain consistency, yes.

814. DR ELIZABETH VALLANCE: Thank you very much.

815. DR BRIAN WOODS-SCAWEN: I would like to just explore the local standards committees and particularly the lay element, the external element of those. What is the evidence that the engagement of outside members of local standards committees resonate with the public and builds public confidence or not?

816. PAUL HOEY: I do not think we have specific evidence that the lay membership of the Standards Committee per se does that. We have evidence, going back to 2005, that the existence of independence within the local conduct framework does give greater reassurance. We asked a question in 2005, "How would you want your matters dealt with through an independent regulator, directly through the council or through your local MP?" We found that by far the most popular choice was to have that element of independence. It was something like 46 per cent said they thought it needed the independent element whereas only 28 per cent were saying it should be the council, and 13 per cent were saying the local MP could act as an arbiter for those local disputes.

817. As we said, when we have looked at the public perception that we have done of politicians throughout 2005, 2007, 2009, the continuing flavour does appear to be that the trust in councillors does hold up. So one could extrapolate from that maybe that because there is this independent element, although it has not specifically been teased out in the research.
818. DR BOB CHILTON: There has been a suggestion that since we moved from the national regime to local standards committees there could be some complainants who were happy to go to a national regime because that was patently independent and they perceive the local standards committee just to be another creature of the council. We are doing a lot of work with the chairs of standards committees to encourage them to gain some public profile locally for who they are and what they are to counter that. We are monitoring it. It is a suggestion. There is not yet evidence, and the volume of complaints submitted to local standards committees has dropped a little bit but not hugely. So it is a possible problem that we are keeping an eye on.
819. DR BRIAN WOODS-SCAWEN: Do you think there are any lessons for a read across to MPs expenses in terms of getting legitimacy through external involvement?
820. DR BOB CHILTON: Yes, if you are seen to be the master in your own house, in your decision taking, then the public is leery over that. You have got to have sheer clarity that you are independent. If that is absent then it taints the quality of the system.
821. DR BRIAN WOODS-SCAWEN: Can I ask about the role of the Standards Board in relation to standards, kind of the Livingstone issue? One of the challenges that has been put to IPSA is that IPSA, apart from perhaps asking for a repayment of inappropriately claimed expenses, would not have the authority to stand in place of elected members in terms of suspension or even expulsion. What is your view on the relationship between the regulator and the sanctions regime for elected members?
822. DR BOB CHILTON: We operate to statute and we have powers afforded to us and the burden on us is to exercise those in a defensible way. I was not around at the time of the Livingstone event but it has led to a revision on where does the private and where does the public role of politicians lie. Where is the boundary between the two? This was by no means clear. Whilst there was considerable debate about it, there was some benefit in the sense that it focused on a critical issue of that nature. Yes, we do have invested in us the power to take a case to the Adjudication Panel for England, where we think suspension or disqualification is appropriate. It is a power given to us by parliament.
823. In a sense at that stage Parliament said, "Well, the ballot box is not enough, there has to be the capacity to intervene on a reasoned basis and a fair process when issues are sufficiently serious". That clearly is currently different from the situation of MPs.

824. PAUL HOEY: Can I just add to that, I know the Adjudication Panel are very loathe to interpose themselves between the ballot box ... you know, they use their powers of disqualification very much as a last resort, which is why there has been so few of them because they would use it for only the most gross misconduct. But I think they would take view that if one works on electoral cycles that something might come to light four or five years before the next election and therefore those things need to be dealt with between those cycles. I think also there is no particular evidence that the ballot box works in terms of if there has been gross misconduct - and if one can think back to the Tatton election. That was a very famous case precisely because it was so unique. The parties all stood aside and said that they would deal with that issue. But that is possibly the only example where the ballot box specifically has been used to register those things. I think there is that issue that one can almost become disenfranchised if one disapproves of the behaviour of one's councillor, one's MP or what have you, because it then leaves you with the choice of either voting for a party that you disagree with, if the party members have not de-selected that person or else, as has been in the past, holding your nose and putting the cross in the ballot box. So those things do have to be considered.

825. DR BRIAN WOODS-SCAWEN: Could I turn to something that was touched on in the earlier part of the discussion, and that is the regime whereby elected members expenses are signed off by executives. Is that right? A couple of questions around the consequences of that. Is there any evidence that that controls, fetters, the authority of elected members because that is a kind of odd relationship between legitimacy coming from the ballot box and working with appointed executives. Conversely, is there any evidence of elected members being - to put it crudely - kind of bullied by executives who have the power of yes or no over expenses?

826. BARRY QUIRK: I think no and no would be my answers there. I do not know of any. I would say there is proportionately the same problem with expenses with executives as there are with elected members. They are human beings the same and the idea that one group of people, because they are elected, have a propensity to claim expenses they are not entitled to than people who are appointed to be public servants, I do not accept.

827. All I was simply pointing to was the check and balance that there is for all people who are appointed and I believe there needs to be for all people who are elected the same.

828. JOHN RANSFORD: I think it is important to reinforce that this is against a very clear code of practice and system of claiming. So everyone knows what the rules are and what the executive are doing in that situation is making sure that claim is in accordance with it.

829. DR BRIAN WOODS-SCAWEN: What happens in practice if, for example, there was concern that travel expenses were being claimed when either the journeys had not been carried out or had been carried out for non authority purposes? What would actually happen?

830. JOHN RANSFORD: In the majority of cases it would lead to a conversation for further information to see whether there had been a mistake in that submission or somebody had got some dates mixed up and I should say the vast majority - Barry's experience is similar to mine in this - has been sorted out like that. In extremis, and I have a situation myself, it ended up with me referring the matter to the police and the councillor receiving a jail sentence. But that is the extremist. But I think that is the important check and balance for the council and for the general public that the scheme which is approved and which is using public money to recompense people reasonably -- and I think we could say with confidence about the local government system that people are not being recompensed in any generous way, they are being recompensed in what they claim and what they provide receipts for, what they have actually incurred.
831. If they do not incur that and that claim is fraudulent then there are due law processes that should be enforced. I think the public would expect it.
832. DR BRIAN WOODS-SCAWEN: Okay, thank you.
833. DAME DENISE PLATT: John, can I pick up something you were saying about transparent information and expenses being a matter of public record. Can you tell us what level of detail is routinely published about councillors' allowances and what they claim? Is it claims submitted, things paid out? Just what is the level of detail that you can find about an individual councillor?
834. JOHN RANSFORD: The routine is the total gross amount claimed. The total gross amount claimed in allowances and the total gross amount claimed in expenses. Now, some councils have gone much further than that and have broken that information down into categories and one council is publishing on its website any claim over a certain amount. So that is much more a decision for that council. These matters that have been referred to several times before are matters of local culture and expectation. Certainly the trend is for an increasing amount of information to be provided in more detail. But the basic is the gross amount.
835. DAME DENISE PLATT: Do you think it will change? Do you see a trend away from just a gross amount?
836. JOHN RANSFORD: I said in my opening remarks that I think expectations are getting higher and higher. The process which you are engaged with is part of that. Whilst I accept the evidence provided by the Standards Board about what public feel about councillors, I have anecdotal evidence that in the recent election period councillors knocking on doors did not feel discriminated against positively compared with the political class generally. All candidates from all parts of the country of all political parties felt it to be a very uncomfortable task. Some may argue so it should be, but I think certainly one of the positives that will come out of this is that the information which is provided will be provided in more detail because under a

proper system of transparency with checks and balances no one should have anything to fear by that. These are justified in terms of the tasks people are carrying out for the public good. Whilst I do not think it will ever lead to greater public satisfaction, it might lead to a different issue.

837. DAME DENISE PLATT: When it is published, is it published in an annual report, online on the council's website, readily available, just how is the information made available?

838. JOHN RANSFORD: Various. The standards system which grew up after the 1986 regulation was for a regular report, six monthly or quarterly in a local newspaper. That has now changed, I think. Councils themselves are providing far more information in their own reports, their reports to the local people, strong correlation between what information councils provide and their popularity in regard. So increasingly that has been provided. And certainly electronically through the website, that gives the opportunity for information in far greater detail than has been available heretofore.

839. DAME DENISE PLATT: There was a sort of passing mention to second homes allowances. Are there any circumstances in which council would give a second homes allowance?

840. JOHN RANSFORD: I was chief executive of the biggest unit of geographical local government in the UK and I do not think there is any justification there for a second homes allowance. The distances in UK terms were vast. I had a few problems in mid winter with emergency accommodation but never a need for a second homes allowance. No, I cannot conceive of it. The only possibility would I suppose be a position with the Local Government Association serving a national body and we make special arrangements for the accommodation of leading members. But that certainly does not include a second homes allowance and I do not think it ever will.

841. DAME DENISE PLATT: Okay. Standards Board, you drew attention in your submission to the practice which prevents twin-hatted councillors collecting two sets of allowances. How do you enforce those rules? Or how are they enforced locally?

842. PAUL HOEY: I do not think we enforce them, I think they are enforced locally. So this might be more a question for Barry.

843. BARRY QUIRK: Well, it is part of our management of the process that we would insist on ensuring that is the case and auditing them all properly. I have to say on the expenses terms, the volume of expenses here in local government is fairly small it has to be said so it would not merit a newspaper advert more than once a year because it would be more than the cost of the total expense claimed annually in many authorities.

844. In my view, taking hospitality from a developer is something which is something I am very, very concerned about, even though it does not involve

an expense. So it is the whole ethical practice of which expense claims is one and if you are on two things, twin-hatted, claiming twice. We must ensure that people know about this, people are aware of it and we check it.

845. DAME DENISE PLATT: Okay, so these are issues of influence in those sorts of ways. One of the things we are also looking at as a committee is those people with dual mandates as we discovered in Northern Ireland, double jobbing.

846. Can I ask about surgeries, any of you to answer, the cost of advertising council surgeries, venues, who pays for them and if local councillors pay, do they recoup any of the costs?

847. BARRY QUIRK: Local councillors generally pay for them because they are generally in local council facilities or they are of marginal cost, either in a school or a community hall or ...

848. DAME DENISE PLATT: From an allowance or from ...?

849. BARRY QUIRK: Not from an allowance, it will be paid from a corporate governance budget. Not through the councillor and the councillor would not pay it and then reclaim.

850. DAME DENISE PLATT: And advertising?

851. BARRY QUIRK: Advertising again would be done corporately. That often differs because, unlike in Parliament, they have three councillors in the same place and they may not be in the same party and they may not want to advertise the same thing at the same place and so on, so it does differ. But the cost of advertising, again, would be down to the authority.

852. DAME DENISE PLATT: Okay, so the amount of allowances that go to an individual councillor are minimal expenses incurred and receipted and claimed rather than office costs, those sorts of things which may be part and parcel of their surgeries and accountability to their ward?

853. BARRY QUIRK: Yes, two-thirds of my councillors claim nothing.

854. DAME DENISE PLATT: Okay, thank you.

855. LLOYD CLARKE: Two general questions if I might, and I am very conscious of the time. It could have been three but I will just stick with two. We have heard about good practice, lessons that there may be from local government for Parliament, can I ask you as a serious question, is there anything from the parliamentary procedures that commends itself to you where you can learn lessons from them with what you have heard? This is a serious question.

856. BARRY QUIRK: I think full disclosure. I think that in law we are obliged to disclose allowances but we are transparent in terms of expenses. In other

words, we are required to provide information on expenses but we do not routinely disclose everything even though it is minor in scale. I think what has come about is the importance of disclosure, timely and full disclosure. I think that is the key thing for me in terms of learning.

857. JOHN RANSFORD: For me - it might not be a direct answer to your question but I feel very strongly about it - it is an avoidance of complacency. It would be easy to sit here and say because of the system and because of the culture we explained earlier then the system may be better than the parliamentary system. I do not feel complacent about this at all because I feel the public standards are changing and the expectations are changing very fast.

858. LLOYD CLARKE: So how do you avoid complacency over a period of years?

859. JOHN RANSFORD: Making sure that we continually review, applying answers to questions. Anything that goes wrong in this system it seems to me is a potential systems failure as well as a potential individual failure. So you apply that back. Making sure that all the information we get from the council itself ... I talked about an independent panel that looks at allowances and the system of expenses from the local complaints bodies, that we really use that information and address it and share with people that we are addressing it. I do not think local government should be at all concerned about people's worry about this because I think if we share what are the reasons for why things happen and show we can apply changes when they are necessary and it is important. I think this will continue to be under public scrutiny long after you finish this piece of work and we must make sure we have a system that is adaptable to that.

860. LLOYD CLARKE: Thank you.

861. DR BOB CHILTON: I would mention two features, the word scrutiny but scrutiny within the way in which Parliament conducts itself. Scrutiny has arrived in local government but it has not always sat comfortably in the way some councils have organised themselves. Second point is that Parliament attracts a lot more media focus and the visibility of that. This is true in some councils but not in all. Using the media and other means to give the public access to what is being done on their behalf is, again, a growth area that local government might pick up some tips from parliament.

862. LLOYD CLARKE: Sure. Perhaps I should know the answer to this but for the Standards Board can you actually proactively investigate complaints or do you actually have to have a complaint and a complainant?

863. PAUL HOEY: We cannot proactively investigate specific complaints about misconduct. In fact, the complaint has to be made to a local authority in the first instance and we can then only pick it up if the local authority decides it, for whatever reason, cannot handle it.

864. LLOYD CLARKE: I ask the question because it has been suggested that the Parliamentary Commissioner for Standards, as is, perhaps as a part of IPSA, should have that additional power, if you like, to proactively investigate.
865. DR BOB CHILTON: What we do have is a responsibility. If we thought there was a pattern emerging from a particular local authority which suggested that the political culture was dysfunctional we do have the responsibility to involve ourselves and seek to raise the standards of behaviour generally across that authority.
866. LLOYD CLARKE: A final general question. Clearly our report is aimed specifically at MPs and their expenses, and there is a wider audience which is the public, I wonder if there is an expectation, or should there be, that our report puts a marker down for other people, in fact all people, who are in receipt of public money and the spending of public money. Is there an expectation that we are going to put a marker down in respect of all those people, whether it be about principle, standards or whatever? Might you be looking at the report for those kind of things also?
867. JOHN RANSFORD: I think I have already indicated that we must learn from whatever information is provided that you can never be complacent about these systems.
868. LLOYD CLARKE: In fact it prompts the question really about the importance and relevance of our report to the wider public sector or those who are spending public money.
869. DR BOB CHILTON: As you well know, these are controversial issues and despite some of the things I have been saying there is controversy in local government. There are those who are not entirely comfortable with the current regime. I think your report in setting out some broad principles upon which political regulation is based, and the importance of an independent regulator, will help to set the tone and confirm some situations beyond parliament.
870. SIR CHRISTOPHER KELLY: And that was said in an entirely disinterested way.
871. DR BOB CHILTON: Of course, Chair.
872. SIR CHRISTOPHER KELLY: Thank you very much. Is there anything that any of you would like to say to us before we finish? Thank you very much, that was extremely helpful. That concludes the evidence for today.

Monday 13 July 2009

Opening Statements

Opening Statement by Elizabeth Peacock

I appear today as Vice-Chairman of the Association of Former Members of Parliament.

However, I must emphasise that these comments and views are mine and do not represent the collective views of the Association of Former Members, as we have not been given sufficient time to establish a collective position.

I was Member of Parliament for Batley and Spen from 1983 to 1997, serving on, and chairing, several committees in the House of Commons

Former Members of Parliament are concerned that the House of Commons and the position of Member of Parliament has fallen into serious disrespect as a consequence of the recent exposure of expense irregularities. I am confident that our members would give full support to actions to prevent this happening in the future.

Clearly there are two aspects influencing the respect for Parliament which need addressing.

Firstly, the relationship of Parliament and government and a clear need to give Parliament wider powers of scrutinizing government and government activities.

I will not however take this aspect further today.

The more important issue for today is the behaviour of Members of Parliament (MPs) in respect of their activities, particularly relating to financial and operational issues.

I will make my comments under the following headings:

1. EMPLOYMENT OUTSIDE PARLIAMENT

I believe it is healthy for Parliament to allow MPs to take some paid employment outside Westminster to give them an up-to-date reality on commercial and public issues. However, such employment must not have an adverse impact on the Members performance for their constituents. Full detail of remuneration and benefits should be in the public domain with a measure of time commitment.

2. TRAVEL

It was always, and remains essential to re-imburse the costs of travel from and within constituencies, together with an allowance for family travel to Westminster. The Voucher system for air and rail travel appears to work, whilst travel by car needs to be tightly monitored

3. MPs' COMMUNICATION ALLOWANCE

The relatively recent introduction of a £10k pa. allowance to allow communication with constituents cannot be justified at this level and gives the sitting Member a clear advantage over any political opponent and as such is, in my view, undemocratic.

However, I always had a problem raising funds for an annual report. A Member should by statute provide a printed Annual and Half Yearly Report of their activities and expenses claimed.

The cost of these reports should be allowable at a controlled level.

4. OFFICE COSTS - STAFF

In my early years office costs were insufficient to allow employment of sufficient staff at Westminster and in the constituency and I was obliged to subsidise these costs from my salary!

The employment and financial control of staff is always troublesome and should be removed to the House in total.

The MP will obviously need to hire and fire but their responsibility should end there.

MPs' staff should be required to demonstrate the nature of their employment both at Westminster and in their constituencies. This would need to be positively monitored for family members.

Office equipment and computer systems should be provided in total by the House to a standardised specification for use at Westminster and in the constituencies through a common service provider on contract.

Office furniture costs, telephones and consumables should be covered by a well-controlled annual allowance.

ADDITIONAL COSTS ALLOWANCE

In my early years the allowance appeared to be based on the cost of three nights in a moderate hotel and was insufficient, as we were required to be in London at least four nights, and was not satisfactory.

The allowance could be used to rent a property but not pay a mortgage. Clearly things have changed and it is obvious to the country that too much money is available and MPs have looked at areas to which it could be applied!

The first step is to calculate the real but sensible cost of a member being in London for 3/4 nights per week when the House is sitting, with a means of covering on-going costs when the House is not sitting. Costs to include somewhere to stay in London, travel in the city and an allowance for outside meals.

This would allow a return to the original system which might be appropriate.

However the alternative, which will take some selling to the public, would be to increase MP's salary to say £90K from which they must make their own arrangements for London living, including the costs of London travel and meals.

Obviously national travel and office costs as described above would need to be covered.

By this means the system would be simplified, remove the scope and temptation for 'bending' the expense system and remove the need for an extensive controlling body — the cost of which would be high.

CONTROL OF BEHAVIOUR

The conduct of an MP should be subject to statutory control with hiring and firing in the hands of possibly the Lord Chancellor, not Parliament itself.

Also if a given percentage of the MP's constituents want change they should be able to demand a by-election particularly if the Member changes party.

Opening Statement by Julia Drown

I have been shocked and appalled by the revelations over how a minority of MPs have abused the current system. Although there are clearly some major flaws with the current system, most of the problems that Parliament is experiencing at the moment is not the fault of the system of expenses but of individual MPs not obeying the spirit of the system.

Transparency

Claims should generally be published but not individual MPs addresses for the security and privacy of their families and themselves. Changes of addresses should be published to avoid flipping houses without the actual addresses being revealed. There are instances where expenditure should be able to be described vaguely where more detailed descriptions would cause unnecessary embarrassment to MPs or their families e.g. for things needed for medical conditions or disabilities, as MPs should not be deterred from claiming for such items.

Additional Costs:

Claiming for expenditure Vs general pay allowances

Because the experience of MPs is different according to whether they have a London, near London or far from London constituency, and because the life of a single person who is an MP can be very different from those with families, I would not support a system of general pay for all MPs which would not take account of their different needs. Parliament should work to support rather than tear apart families. The only way to support families is to be able to claim for the additional costs of

second homes and to ensure that the claims are reasonable given the family units involved.

Maximum limits on additional costs expenditure

The maximum claimable could be reduced. There should be a general maximum for the running costs of a second home, and a one-off set-up maximum for each MP to claim only once in any continuous serving as an MP for them to buy reasonable but not luxurious furniture if and when they buy or rent a second home.

Capital gains on second homes

If rules are to be created so that the taxpayer gets any gain on a second home (or presumably a proportion of the gain if they funded only a proportion of the gain) the rules would also need to ensure that the MP shouldn't have to cover the capital gain tax due on the property. The rules, to be fair, would also need to provide for the taxpayer funding any loss on a second home (or proportion of the loss).

I can see a change in the current rules creating as many problems as it solves. If the abuse on the second homes is eliminated then getting MPs to take the risk of gains or losses on second properties may well be the simplest solution.

Establishing a Main Home

I believe that MPs can state that their main home is in neither the constituency or London so that they can get travel paid to and from their home to the constituency and to Parliament. Travel should only be paid between the constituency and Parliament and not to a third home.

Office Costs

Staff should be employed by the House. Employing family members does help keep some families together though I recognise it hardly fits aspirations of equal opportunities.

Mechanisms should be explored for MPs or political parties to part fund staff salaries to recognise that a proportion of some MP staff's time might be spent on political rather than Parliamentary Business.

Non-staff costs should also be paid direct to suppliers rather than nominally via the MP to make the system more transparent for the public and to reduce the accountancy workload on MPs.

MPs with other jobs

The Committee should consider saying MPs should generally not be able to have other paid work including being paid for media appearances or completing opinion polls. Many of us raised money for charities by doing opinion polls but is it a good use of MPs time? There should be a procedure for approving other work that MPs might want to do, as there could be some cases where an MP might be permitted to carry out some minimal work to allow them to return to their trade or profession when they leave the House.

Travel Expenses

More could be done to reduce travel costs e.g. more travel on standard class and less open tickets used. There needs to be an expectation – just as there is in other employment - that checks will be carried out e.g. occasional checks that those using the car park are those claiming for mileage and if others are claiming mileage to the House then finding out why.

Family travel

In the way that companies pay for re-location including some travel costs for whole families I do support a limited number of journeys of family members between the London and constituency home.

Communication Expenses

The communication allowance should be abandoned.

Resettlement Grant

The current level of resettlement grant should be reduced but there should be such a grant so that retiring MPs can concentrate on working hard for their constituencies up till the general election without having to find a job for themselves afterwards. Consideration should be given to having an MPs office in each constituency which is funded by Parliament.

Other Expenses

I understand that Mr Speaker has powers to grant additional allowances to some MPs, for example because they have a particularly heavy constituency workload or have a disability. An open procedure needs to be established to deal with exceptional cases such as these.

Opening Statement by Barry Winetrobe

1. Though this session relates to the role of ‘constitutional watchdogs’ in a system of parliamentary resourcing, the wider constitutional context in which these bodies would operate must be considered.
2. The running sore of MPs’ expenses reveals fundamental shifts in UK representative democracy. The public’s expectations and ability to know, and to participate in, how they are governed - enhanced by IT and Freedom of Information - have barely been recognised or accepted by Westminster and Whitehall, which continue their cosy, insular and exclusive bipartite politics. This needs to be replaced by transparent and accountable ways based on a tripartite relationship between Parliament, Government and People.
3. As the Committee has recognised, modern representative democracy requires more than crude, periodic ballot box accountability.⁴ Appropriate forms of ‘continuing accountability’ (such as FoI) need to be devised. Though elected representatives pay

⁴ Eg 8th Report, para 2.41, Cm 5663, 2002 p15: “While we acknowledge the unique feature of reselection and re-election for Members of the House, we also acknowledge the arguments of weight which point in the other direction. An individual elector’s vote is rarely determined solely by conduct issues. Even more importantly, the accountability of Members for their conduct should be a continuing obligation, not a “*once every four or five years exercise*”.

lip-service to this, they prefer to continue the old, 'safer' ways of insular, non-transparent governance and occasional accountability.

4. Appropriately designed independent watchdogs can be a useful 'continuing accountability' mechanism for parliaments and elected representatives, which both recognises the unique constitutional and political environment, and preserves self-regulation, which the Committee has consistently recognised as essential.

5. The solution to Westminster's ills is not less self-regulation, but more. But it must be self-regulation that is truly responsible, transparent and accountable, free from Executive dominance and control, and where fundamental legal protections and privileges are not abused as a barrier to transparency and accountability. The Committee's original analysis and vision of parliamentary self-regulation buttressed by an independent element still applies.⁵

6. Not everything need be done entirely 'in-House'. Arm's length operation by bodies acting on Parliament's behalf may be more effective and accountable. It does require a fundamental culture shift in Westminster from insularity and privacy to openness and accountability, based on core principles. Public trust can only be restored by injecting the necessary element of true responsibility that should make self-regulation operate, not narrowly for Members or staff, but for the public interest.

7. The institutional design of independent watchdogs, especially those created to buttress parliamentary self-regulation, is complex and sensitive, and vulnerable to reactive tinkering.⁶ For example, the current proposals risk overlapping jurisdictions between the new bodies, and between them and existing bodies.

8. Any watchdogs need to operate within a fundamentally reformed parliamentary environment. The misconceived and damaging reactions of both the House and the Government to the expenses issue in recent years (including the various 'quick fixes', culminating in the Government's *Parliamentary Standards Bill*) demonstrate that this requires two basic shifts in how the Commons itself operates:

- Relevant internal House procedures – e.g. the roles of the Speaker, the HC Commission, 'domestic committees', administrative offices/staff, and the House itself – need to be made more open, robust and accountable;
- All related bodies and processes - including legislative initiative (akin to Holyrood's committee bill mechanism), and the design and operation of related external bodies such as your Committee and the SSRB - should be freed from inappropriate Executive control and initiative, so that House governance, including finance and standards, genuinely respects Parliament's necessary constitutional autonomy.

9. The expenses issue is one aspect of Westminster's core problems. But the solution is the same. A modern, responsible, autonomous but accountable parliament

⁵ 1st Report, esp paras 90-99, Cm 2850, 1995, pp41-42

⁶ [O Gay & B Winetrobe, *Parliament's watchdogs: at the crossroads*, Study of Parliament Group/Constitution Unit UCL, 2008](#); [O Gay & B Winetrobe, "Watchdogs of the constitution – the biters bit?", in R Hazell \(ed\) *Constitutional futures revisited*, 2008](#); [Ethics and standards: the regulation of conduct in public life](#), HC Public Administration Committee, 4th Report 2006-7, HC 121, 2007; [Review of SPCB Supported Bodies Committee, 1st Report, 2009, SP Paper 266., May 2009.](#)

needs to remain fundamentally self-regulating, free from unconstitutional Executive institutional control, but open and receptive to public accountability and engagement. Based on coherent and open underlying principles, applicable to all aspects of parliamentary operation, independent watchdogs can buttress robust internal House mechanisms. This can produce an effective, autonomous parliament, efficiently resourced and regulated, appropriate to modern representative and accountable democracy, and trusted by the public.

Opening Statement by Professor Dawn Oliver

There is a lack of understanding in government and among the party elites of the importance of parliamentary privilege. There is no real sense of corporate identity, culture or purpose in the House of Commons, so members are incapable of taking steps to put things right autonomously. Thus government and the party leaders have taken the initiative.

Not all aspects of the Parliamentary Standards Bill raise parliamentary privilege issues: the fixing of MPs' salaries and establishing a carefully worked out expenses/allowances system with minimal discretion in the body administering it would not do so. I think it is desirable, though not essential, that such a body be established.

I do not think an outside body such as IPSA should be given an *ethical* regulation role at all, unless and until the implications for parliamentary privilege have been properly considered. Setting salaries and allowances and implementing them is not ethical regulation, it is administration.

It is in the public interest that MPs be paid appropriate salaries plus, or including, allowances for the costs of the fact that they need to have bases of some kind both in their constituencies and at Westminster. The present intra-parliamentary arrangement makes the setting of appropriate salaries and allowances politically very difficult.

The status of IPSA: Openness would secure some protection for IPSA if it were being undermined by MPs or the press, for instance because its proposals for updating of allowances was considered inappropriate.

The Comptroller and Auditor General and the National Audit Office could report to the PAC if inadequate funding was preventing IPSA from performing its functions.

The 'constitutional' ways for Parliament to give effect to dissatisfaction with IPSA would be to dismiss its members, or to legislate to alter its mandate or abolish it.

Independence of IPSA depends on security of tenure after appointment rather than the process of appointment. The fact that Parliament has a role in appointment will legitimate the appointments to the House of Commons, and that is a very important matter.

An advisory board to IPSA composed of a range of people with expertise and one or two lay people would be useful in providing feedback to IPSA about its plans and operations.

The important thing is that the 'web' of accountability in which IPSA operates should operate to promote its proper discharge of its functions in the public interest and not to undermine it.

I do not believe that new offences are required in relation to expenses claims.

A right to reimbursement of expenses in accordance with a legal scheme is in my view a civil right. Article 6 ECHR is thus engaged. There has to be recourse to a tribunal that is independent both of IPSA/ the Commissioner (the 'prosecutor') and MPs, and is established by law.

Opening Statement by Professor Leopold

- There is a risk that the various aspects of the expenses affair (rates of pay, allowances, self-regulation, parliamentary privilege) become muddled and that in the rush to be seen to be doing something a piece of poor legislation will be passed. There is the likelihood of further controversy on this piece of legislation when an attempt is made to apply it to the Lords. If the setting up of a new body is so important it should have been set up for both Houses at the same time.
- There has not been adequate consideration of the implications of the Bill. The willingness of the government to make changes to the Bill illustrates how the scheme of the Bill was not well thought out. It is worth noting that the Joint Committee on Parliamentary Privilege took evidence and made a report which was not acted on, partly one assumes because of the controversial aspect of some of its recommendations on parliamentary privilege.
- The best ethical regulation has to be from within. There is a need to change the culture in Westminster and the party leaders have to play a role here. Imposing this reform on the Commons by virtue of cross party agreement (which is in effect what has happened) is not the way to do this. The Commons may have voted for the Bill, but this does not necessarily mean that it has the actual support of MPs.
- It is possible that aspects of the present crises could have been dealt with by better and more effective internal parliamentary machinery, for example by giving the Fees Office more teeth to enforce the rules on expenses and allowances. Some lessons could have been taken from the way in which the Inland Revenue administers claims for expenses.
- The funding of the IPSA should be charged directly on the Consolidated Fund.
- It is important that Parliament has a role in the appointment of the members of the IPSA; the scheme whereby those recommended for appointment to a variety of bodies should appear before a committee of Parliament is a useful device that should be used for the IPSA.
- There is a possibility that IPSA will become a very expensive and very busy body. Some years ago when New South Wales set up a generously staffed Independent Commission complaints to it soared and there were suggestions that it was too

proactive in encouraging complaints. It may be worth finding out how the independent bodies set up in a variety of Australian states are working.

- MPs should be paid a fair salary and have expenses and allowances, and there is justification for this being done by an outside body. The problem with the old scheme was that it was not open or accountable. If IPSA is seen as sufficiently independent of Parliament this will assist in it being seen as accountable to the public. However there will be an inevitable tension between the need to have the confidence of MPs and the need to have the confidence of the public.
- I do not think there should be new criminal offences that only apply to MPs (and eventually peers). If criminal enforcement is required the existing law is sufficient subject to Article IX of the Bill of Rights.
- It is important that the mechanism set up to regulate MPs use of expenses and allowances is fair and in accordance with the ECHR. An independent tribunal would be a better scheme.

Opening Statement by Dr Robert Chilton

Member regulation: the local government experience

Regulation of locally elected councillors is based on the Principles of Public Life first articulated by the Committee. The Model Code of Conduct to which councillors sign up – most recently amended in 2007 – sets those principles in a legal framework.

While there are obvious differences between the roles, privileges and accountabilities of national and local politicians, our submission highlights the important lessons that can be learned from the way local government is successfully regulated. This includes the reinforcing role of the local standards framework in:

- Protecting the public from inappropriate behaviour and providing redress for citizens experiencing an imbalance of power when dealing with a local politician.
- Protecting politicians from unjustified accusations.
- Supplying local checks and balances on the use of resources (including expenses) and other probity issues.
- Ensuring independent, expert oversight.
- Building public trust in local politics by ensuring that the public has confidence both that their complaints are taken seriously and that there is appropriate redress when misconduct is found (54% of complaints come from the public).

Our submission recommends design principles to be considered in the development of any future conduct framework. Based on our research, these principles, which work together to inform the values, culture, leadership and processes necessary for good accountability mechanisms, are:

- Strike an appropriate balance between rules and trust.
- Ensure effective independent overview.
- Ensure effective leadership and a culture of propriety.

- Underpin with transparency and open communication.

We have also learned that the regulation of political activity will never attract popularity; but we do seek respect. More than most personal regularity systems, politicians are understandably sensitive to their reputations. They neither appreciate making an allegation that is rejected, nor being the target of an allegation that is upheld. Myths are born in such an environment.

It is sometimes said that the local system encourages large numbers of trivial and vexatious complaints. This has also been advanced as an argument during parliamentary debate for not having a Code of Conduct for MPs that is independently regulated. It is unfortunately a feature of any complaints system - whether it is for politicians, lawyers or doctors, for example – that complainants will have a range of motives. Since 2008, the local system allows trivial and vexatious complaints to be weeded out quickly at the initial assessment stage and for these issues to have closure. Of the complaints received last year by local standards committees around half were considered worthy of further action. Without an independent framework many of these allegations would still be made and the alternative may simply result in 'trial by media' as many MPs have felt about certain recent matters.

It is said that the Code of Conduct prevents local politicians speaking out on behalf of their communities. MPs similarly express concern about the impact on parliamentary privilege if they were to have a similar Code. In fact, the Code only prevents councillors from voting on matters where they or those close to them have a clear financial stake in the outcome. It does not prevent councillors from speaking on behalf of their communities.

This is not a minor concern, as most people would accept that political office should not be used for private gain. Around a quarter of complaints concern perceived self-interest in decision-making, and the Code and Standards for England guidance offers clear protection for local politicians from such allegations. This is done by clarifying in what circumstances they should declare an interest and in what circumstances it is possible to express a view.

It is sometimes said that the Code of Conduct and the standards framework is unwelcome in local government. This is not true. In our research earlier this year, 94% of members and officers supported the need to sign up to a code of conduct. Indeed 74% of members and officers are confident in local government's ability to identify breaches of standards of behaviour and 80% that local government will deal appropriately with such breaches.

Like the Committee, we periodically track issues relating to public trust in politicians. Our most recent survey was carried out only last month, in June 2009. It offers a comparison of the public's opinion of their local MP and of their local councillor. 29% subscribe to the view that MPs would rarely or never tell the truth – 9% worse than in 2007; for local councillors the corresponding figure was 20%, only 2% worse than in 2007. In general, public trust in local councillors had declined far less sharply than that in MPs and suggests that the public seem able to differentiate between what happens locally and nationally.

The matters concerning the Committee remind us all that this enquiry cannot just be about doing the right thing, as far as standards in public life are concerned, but also needs to be about restoring public confidence that the right things are being done, and seen to be done; and if not, that there is an appropriate independent redress mechanism.